

INSTRUMENT NO. 9918667
MASTER DECLARATION
OF
COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS
FOR
THE ISLANDS SUBDIVISION

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ARTICLE I

RECITALS

WHEREAS, the undersigned (hereafter "Grantor") is the Owner of certain land in Canyon County, Idaho, more particularly described as follows (hereafter "Property" or collectively "Subdivision"):

All of the Lots in The Islands Subdivision No. 1 according to the official plat thereof, Instrument No. 9903538 on file in the office of the County Recorder of Canyon County, Idaho, as shown by Book 26 of Plats at Page 28, records of Canyon County, Idaho AND All of the Lots in The Islands Subdivision No. 2 according to the official plat thereof, Instrument No. 9915251 on file in the office of the County Recorder of Canyon County, Idaho, as shown by Book 26 of Plats at Page 39, records of Canyon County, Idaho and Affidavit filed and recorded as Instrument #9916491.

WHEREAS, the Grantor desires to subject the Property to the covenants, conditions, restrictions, easements, reservations, limitations and equitable servitudes herein set forth to (i) insure the enhancement and preservation of property values (ii) provide for the proper design, development, improvement and use of the Property by the Grantor and all other persons or entities who may subsequently acquire an interest in the Property and (iii) create a residential development of high quality;

WHEREAS, as additional land owned and platted by the Grantor adjacent to or in the vicinity of the Property is platted and developed for uses similar to that of the Property, upon election by the Grantor, such shall become subject to the terms of this Master Declaration by annexing the same as provided herein;

WHEREAS, because the Subdivision will be developed in several phases, each of which may have unique characteristics, needs and requirements, the Grantor may, from time-to-time, promulgate further conditions, covenants, restrictions and easements as "Supplemental Declarations" relating to particular tracts or parcels of real property within the Subdivision; and

WHEREAS, in order to achieve the objectives and desires of the Grantor, the Grantor will control the management and government of the Property and the non-profit association of Owners to be created until such time as the Owners take over the management functions through the Association upon substantial completion of the development process.

ARTICLE II

DECLARATION

The Grantor hereby declares that the Property and each Lot, tract or parcel (hereafter call "Lot", unless specified to the contrary) is and shall be held, sold, conveyed, encumbered, hypothecated, leased, used, occupied and improved subject to the following covenants, conditions, restrictions, easement, reservations, limitations and equitable servitudes (hereafter collectively called "covenants and restrictions"), all of which are declared and agreed to be in furtherance of a general plan for the protection, maintenance, Subdivision, improvements and sale of the Property or any Lot herein, and to enhance the value, desirability and attractiveness thereof. The covenants and restrictions set forth herein shall run with the land and each estate therein and shall be binding upon all persons having or acquiring any right, title or interest in the Property or any Lot therein, shall inure to the benefit of every Lot in the Subdivision and any interest therein; and shall inure to the benefit of and be binding upon the Grantor and each Owner, and each successor in interest of each, and may be enforced by the Grantor, by any Owner, or by the Owner's Association, as hereafter provided.

Notwithstanding the foregoing, no provision of this Master Declaration shall be construed or enforced to prevent or limit the Grantor's right to complete development of the Property in accordance with the plan therefor as the same exists or may be modified from time to time by the Grantor nor prevent normal construction and marketing activities during the construction and selling of improvements upon any Lot in the Subdivision. No development, construction or marketing activities shall be deemed to constitute a nuisance or violation of this Master Declaration by reason of noise, dust, presence of vehicles or construction machinery, erection of temporary structures, posting of signs or similar activities, provided that the same are actively, efficiently and expeditiously pursued to completion and selling thereof. In the event any dispute concerning the foregoing shall arise, a temporary waiver of the application provision(s) of this Master Declaration may be granted by the ACC provided that such waiver shall be for a reasonable period of time. Any such waiver need not be recorded and shall not constitute an amendment of this Master Declaration.

In the event of any conflicts between the provisions of this Master Declaration and the requirements of the applicable ordinances of the City of Nampa, Idaho, the more restrictive shall control.

ARTICLE III

DEFINITIONS

As used in this Master Declaration, unless the context otherwise specifies or requires, the following words and phrases shall be defined as follows:

ACC: The Architectural Control Committee for the Subdivision.

ACC Standards: Such rules or standards promulgated by the ACC as authorized herein.

Annexation: The process by which additional tracts or parcels of land, including platted Lots improved with single family dwellings, not initially a part of the Property are made subject to this Master Declaration.

Assessments: A payment required of Association members, including Regular, Special or Limited Assessments as provided in this Master Declaration.

Association: The Islands Subdivision Homeowners Association, Inc., an Idaho non-profit corporation.

Board: The duly elected and qualified Board of Directors of the Association.

Builder: A person or entity who purchases a Lot from the Grantor for the purpose of constructing Improvements thereon to then market to sell and/or sell both Lot and Improvements to a Buyer.

Building: A structure constructed on a Lot on a temporary or permanent basis and unless specified to the contrary, shall include all other appurtenances and improvements thereto or used in connection therewith.

Buyer: A person or persons who buys a Lot and Improvements thereon from a Builder who purchased a Lot from the Grantor or one who purchases a Lot and builds or contracts to build said improvements with the intent to occupy said Lot and the Improvements thereon.

By-Laws: The By-Laws of the Association, including any amendments thereto duly adopted.

Common Area: All real property within the Subdivision in which the Association owns an interest or controls in whole or in part and which is held, controlled or maintained in whole or part for the betterment of the Subdivision.

Development: The project to be undertaken by the Grantor resulting in the improvement of the Subdivision or any additional property annexed hereunder including landscaping, amenities, construction of roadways, utility services and other improvements.

Grantor: The undersigned Owner of the land comprising the Subdivision.

Improvements: All structures and appurtenances thereto of all kinds and types, including but not limited to, Buildings, roads, driveways, parking areas, sidewalks, walkways, walls, fences, screens, landscaping, poles, signs and lighting. Improvements shall not include those items which are located totally on the interior of a Building and cannot be readily observed when outside thereof.

Initial Construction: The first construction of permanent improvements on a Lot following the sale of that Lot by the Grantor to an Owner, and intended for residential occupancy.

Island Area: Group of Lots within a specific area of the Subdivision with its own specific ACC Standards.

Limited Assessment: An assessment levied by the Association upon one or more Lots, but not upon all Lots within the Subdivision, for the purpose of securing payment by the Owner(s) thereof of amounts expended by the Association to correct a prohibited condition or to cure an Owner's breach hereunder.

Lot: A portion of the Property which is a legally described tract or parcel of land within the Subdivision or which is designated as a Lot on any recorded Subdivision plat relating to the Property.

Master Declaration: This instrument as it may be amended from time to time.

Master Marketing Covenant Agreement: An instrument outlining the guidelines of marketing the Subdivision and the Lots with or without Improvements.

Member: Any person(s) who is an Owner of a Lot within the Subdivision.

Mortgage: Any mortgage or deed of trust or other hypothecation of land located in the Subdivision to secure the performance of an obligation. Unless otherwise specifically provided, the reference to a "Mortgage" in this Master Declaration shall be limited to a "First Mortgage", including a "First Deed of Trust" on a Lot in the Subdivision.

Mortgagee: The holder of a Mortgage or the beneficiary under a Deed of Trust, including an assignee(s) thereof, which Mortgage or Deed of Trust encumbers a Lot in the Subdivision owned by an Owner. Unless otherwise specifically provided, the reference to a "Mortgagee" in this Master Declaration shall be limited to a holder of a First Mortgage, including a beneficiary under a First Deed of Trust on a Lot.

Occupant: Any person, association, corporation or their entity who or which is an Owner, or has leased, rented, been licensed, or is otherwise legally entitled to occupy and use any Building or Improvement on a Lot whether or not such right is exercised, including their heirs, personal representatives, successors and assigns.

Owner: A person or persons or other legal entity or entities, including the Grantor, holding fee simple title to a Lot in the Subdivision, including contract sellers, but excluding those giving such interest merely as security for the performance of an obligation, but including any Mortgagee (of any priority) or other security holder provided said Mortgagee or other security holder is in actual possession of a Lot as a result of foreclosure or otherwise, and any person taking title through such Mortgagee or other security holder by purchase at foreclosure sale or otherwise.

Plat: A final Subdivision plat covering any real property in the Subdivision, as recorded in the office of the County Recorder, Canyon County, Idaho as the same may be amended by duly recorded amendments thereto.

Property: The whole or part thereof of The Subdivision as platted and recorded with legal definition.

Regular Assessment: An assessment levied by the Association to provide funds to pay the ordinary estimated expenses of the Association.

Special Assessment: An assessment levied by the Association other than a Regular or Limited Assessment.

Sub-Association: An Idaho non-profit corporation or unincorporated Association organized by the Grantor or by any Owner(s) pursuant to a Supplemental Declaration recorded by the Grantor for any specific tract or parcel within the Subdivision. Unless specifically provided to the contrary, or the context requires otherwise, a reference to "Association" shall include "Sub-Association".

Sub-Association Board: The duly elected and qualified Board of Directors of a Sub-Association. Unless specifically provided to the contrary, or the context requires otherwise, reference to "Board" shall include "Sub-Association Board".

Supplemental Declaration: The additional or different conditions, covenants, conditions, restrictions and easements relating to a particular tract or parcel of real property within the Subdivision promulgated by the Grantor and recorded in the official records of Canyon County, Idaho. Unless specifically provided to the contrary, or unless the contract otherwise requires, a reference to "Master Declaration" shall include "Supplemental Declaration".

The Subdivision: The whole of the Property and any additional land annexed thereto as provided herein, including any such additional land as may be platted and annexed hereunder under a different name (also sometimes referred to herein as "Property").

The Islands Subdivision Homeowners Association, Inc.: The Idaho non-profit corporation organized by the Grantor and comprised of Members and existing for the purpose of providing self-government for the Property.

ARTICLE IV

PURPOSE

The Property is hereby made subject to the covenants and restrictions contained in this Master Declaration, all of which shall be deemed to be imposed upon and run with the land and each and every Lot and parcel thereof, and shall apply to each and every Owner and Occupant thereof and their respective successors in interest, to insure proper design, development, use and maintenance of the Property for the purpose of:

- (a) Insuring Owners and Occupants of Buildings of quality of design, development, improvement, use and maintenance as shall protect and enhance the investment and use of all Lots and Improvements.
- (b) The prevention of the erection in the Subdivision of improper design of construction with improper or unsuitable materials or with improper quality and method of construction.
- (c) Encouraging and insuring the erection of quality and attractive Improvements appropriately located within the Property to assure visual quality and harmonious appearance and function.
- (d) Securing and maintaining proper set backs from streets and open areas in the Subdivision and adequate free spaces between Improvements.
- (e) The integration of development of the different Lots by setting common general standards consistent with ACC Standards existing from time to time.
- (f) Insuring attractive landscaping and the conservation of existing natural features with minimum adverse impact on the ecosystem.
- (g) As used hereafter, "Project Objectives" shall mean the forgoing specified purposes.

ARTICLE V

PERMITTED USES AND PERFORMANCE STANDARDS

SECTION 5.01. Uses. Unless otherwise specified in a Supplemental Declaration covering a particular Lot(s) or Island Area(s), Lots shall be used only for residential purposes and such uses as are customarily incidental thereto and Common Area. The use of said Lots shall be limited to and restricted to single-family dwellings which shall not exceed two stories in height and an attached garage for no less than two or more than five vehicles, including boats and camper trailers for a one-family dwelling, and other buildings accessory to an urban residential

use as established by these covenants and the Nampa City Subdivision Ordinance and the Nampa City Zoning Ordinance as those ordinances may be amended from time to time.

Basements shall be allowed; however, Grantor and ACC makes no representation as to soils, groundwater, or sewer depth to accommodate such. Any Buyer and/or Builder of said basement shall hold Grantor harmless from any and all liability that may arise out of ground conditions, quality of construction, settling or drainage problems, or things such as these.

SECTION 5.02. Buildings. Except as otherwise designated on the master plan for the Subdivision, or unless otherwise specified for a particular Lot, tract, or parcel in a Supplemental Declaration, no Lot shall be improved except with one (1) dwelling unit. Each dwelling unit shall have an attached enclosed garage adequate for a minimum of two (2) standard size automobiles. No carports or parking pads shall be allowed other than as provided herein.

SECTION 5.03. Approval of Use and Plans. No Improvements shall be built, constructed, erected, placed, materially altered within the Property or upon any Lot unless and until the plans, specification and site plan therefor have been reviewed in advance and approved by the ACC in accordance with the provisions of Article XI, below. The two sets of building, fencing, landscaping, plans are to be submitted to the ACC for approval. The ACC shall have sole discretion in approving square footage, including any unfinished space, determining adequate value of the dwelling unit including Lot cost, the quality of design and materials to ensure conformity to the standards of the Subdivision, and the location of dwelling units to comparable units within the Subdivision. The Grantor and/or the ACC shall have the right to set minimums in the Island Areas within the Subdivision and sales may be restricted if it is determined by the Grantor or ACC that the Buyers will or may violate the criteria for value and size. The Island Areas may change along with the ACC criteria for said area at the discretion of the Grantor and/or ACC without cause or notice.

SECTION 5.04. Adoption of ACC Standards. The Grantor, or in the event of the Grantor's failure to do so, the ACC, shall have the power to promulgate ACC Standards relating to the planning, construction, alteration, modification, removal, or destruction of improvements within the property deemed necessary or desirable by the Grantor, or the ACC, as the case may be, to carry out the purpose of this Master Declaration. All ACC Standards shall be consistent with the provisions of this Master Declaration.

SECTION 5.05. Building Materials. All buildings erected upon any Lot shall be of frame construction on concrete foundation with brick or stucco accents as specified by the ACC Standards. All buildings shall be finished, painted and maintained in good repair so as to be in conformance to the ACC Standards. All houses and garages shall have a minimum of 5/12 pitch to the truss/roof line or steeper or as provided for by the ACC, whichever is more restrictive and leaves a minimum of 18" for box soffits and 24" for rake soffits.

SECTION 5.06. Building Location. The dwelling unit and any out buildings shall be located within the setback requirements of the Nampa City Zoning Ordinance or as designated by the ACC, whichever is more restrictive. Notwithstanding the above, no outbuilding, storage shed, patio cover, or other structure shall be located further forward to the front of the street than the leading edge of the dwelling unit nearest said structure. Further, no structure including eaves, overhangs, etc. shall encroach, extend to or across any Lot line. The ACC shall have the right to stagger the front setbacks of the Lots in order to create a more pleasing appearance and to minimize the negative visual appearance of a uniform building line. The ACC shall also have the power to approve a zero Lot line setback on the sides of any Lot in the Subdivision, provided approval is also obtained from the appropriate city authority.

SECTION 5.07. Work Prosecution. The construction of all dwellings and outbuildings shall commence within one month of closing on the Lot and be prosecuted diligently and continuously from the time of commencement thereof and same shall be completed, including exterior painting and landscaping, within three months for homes under 1,500 S.F. and five months for all others after the date of commencement of construction unless such completion is prevented by cause beyond the control of the Builder/Buyer. Any exception must be approved in writing by the ACC.

SECTION 5.08. Prohibited Buildings/Uses. No trailer or other vehicle, tent, shack, garage, accessory building or out building shall be used as a temporary or permanent residence. No noxious or offensive activities shall be conducted on any Lot nor shall anything be done thereon which may be or become an unreasonable annoyance or nuisance to the occupant(s) of the other Lots within the Property by reason of unsightliness or the excessive emission of fumes, odors, glare, vibration, gases, radiation, dust, liquid waste, smoke, or noise. No buildings shall be moved onto any building site unless advance written permission and approval of plans, specifications and location is obtained from the ACC.

SECTION 5.09. Lighting. Each Owner shall install, and maintain in an operative condition, a minimum of two (2), exterior lights on the front garage face. When design permits, recessed soffit lights should be used. Photocell controlled lights on the front of the house is to be encouraged. All exterior lights and interior lights reflecting outside shall not be placed in any manner, which will cause glare or excessive light spillage on any neighboring Lot and shall be in accordance with the ACC Standards.

SECTION 5.10. Animals. No Lot or portion thereof shall be used for the keeping, breeding or pasturing of rabbits, goats, sheep, swine, horses, cows or other animals not kept inside the dwelling house. Two dogs, cats or other household pets may be kept, provided that no animals are kept, bred or maintained for any commercial purposes. Dog runs are to be built at the rear of the property or behind the dwelling unit and screened from view with a fence not to exceed six feet (6') in height. All dog runs are to be built for easy maintenance and cleaned at least once a week to avoid offensive and obnoxious odors to surrounding neighbors. Barking dogs will be considered a nuisance and dealt with according to city regulations or as provided for under any applicable state statutes or enforced as a nuisance within the enforcement of these covenants. Dogs, cats and other pets shall be on a leash when not confined to its Owner's Lot and shall be considered a nuisance when not contained to its Owner's Lot or kept on a leash. No exotic pets (even if said poison has been removed) shall be kept.

SECTION 5.11. Water. The Grantor will deliver domestic water to the point where the water meter is located at the property line. Each Lot Owner shall connect to the water system at this point and use this water for their domestic use in accordance with payment and procedures of the City of Nampa.

SECTION 5.12. Pressurized Irrigation Water. The Grantor will deliver nonpotable pressurized irrigation water to each Lot near the back or side property line. Each Lot Owner shall connect to this system and use this nonpotable water for all lawn, shrubs, flowers, sprinkling/irrigation. Each Lot Owner shall be responsible to label as "nonpotable water, do not drink". This water shall NOT be for potable/ domestic use. Each Lot Owner is advised to contact the City of Nampa Irrigation/Water Department for further information and/or details of the irrigation system, use of irrigation water and hazards associated with such use. Reporting of damaged or broken lines should be made to emergency services with the City of Nampa emergency service dispatch.

SECTION 5.13. Sanitary Sewer. All bathroom, sink and toilet facilities shall be located inside the dwelling house or other suitable appurtenant building and shall be connected by underground pipe to the city sewer provided by Grantor and Grantor shall provide pipe stub within the Lot line of each Lot. No septic tanks or cesspools shall be installed on any Lot except sand and grease traps as part of the storm drainage system.

SECTION 5.14. Grading and Drainage. A site plan indicating the proposed grading and drainage of a Lot must be approved by the ACC before any construction is initiated. Lot grading shall be kept to a minimum and buildings are to be located for preservation of the existing grade(s) and any grade(s), berms or swales should be an integral part of the grading design. Subject to the requirements of any government entity having jurisdiction thereof, water may drain or flow into adjacent streets but shall not be allowed to drain or flow upon, across or under adjoining Lots or common areas, unless an express written easement for such purpose exists. No approval of a drainage plan shall relieve Builder of responsibility to ensure correctness nor provide any guarantee to any Buyer.

SECTION 5.15. Commercial Use Prohibited. No Lot shall be used for commercial or business activity, provided however, that the Grantor or person authorized by the Grantor may use a Lot or Lots for development and sales activities relating to the Subdivision, model home or real estate sales as provided for below. As used herein, "commercial or business activity" shall not include the rental by an Owner of a Lot and the improvements thereon for residential purposes or the incidental use of a Lot and the improvements thereon by an occupant for the purposes incidental to a commercial or business activity. Such use shall not be in violation of this section, provided that, (1) such a Lot is not the principal location for such commercial or business activity, and (2) employees, customers, clients, patrons, and similar persons related to such commercial or business activity are not present on the Lot on a regular basis. Any variances such as in-home childcare, in-home professional office, must be approved by the Board, and shall meet any and all city, county, and state codes and/or ordinances.

SECTION 5.16. Signs. No commercial billboard or advertising shall be displayed to the public view on or from any Lot. Owners may advertise a dwelling unit and Lot for rent or sale by displaying a single, neat, maximum 18"x24" sized "For Sale" sign on their Lot. Signs advertising the name of the builder and the name of the institution providing the financing therefor may be displayed on a Lot during Initial Construction of the Improvements. Signage during initial construction may vary in size as determined by the Grantor or Board. Lighted, moving, or flashing signs for any purpose are prohibited except lighted signs installed by Grantor in any Common Area. Directional signs may be used to give directions to traffic or pedestrians or give special instructions. Any directional or identification sign in the Subdivision shall be permitted, provided the same is approved by the ACC prior to use or installation. No sign shall be placed in the common area Lots other than those permanently installed by the Grantor or subsequently replaced or installed by the Board and approved by the ACC. Grantor reserves the right for itself or its designated marketing firm to install signage, flag poles, banners, balloons, etc. for the purpose of marketing the Subdivision and any subsequent annexed areas. All such items shall be removed upon the completion of marketing of the Subdivision.

SECTION 5.17. Marketing/Sales Center/Model Homes. Grantor reserves the right for as long as deemed necessary and appropriate to use Lot 2 Block 2 and/or other designated Lot or Lots in other annexed areas for one main sales center for itself or its designated marketing firm. Also, builder model homes may be built and left unsold for up to six (6) months for the purpose of securing customer/pre-sold sales, or as determined acceptable by the ACC. Grantor may also allow additional satellite sales/information centers. However, location, type of signage, flags, banners, etc. shall be at the sole discretion of and must be approved by Grantor. Grantor may restrict the usage and activity of model homes, satellite sales/information centers to itself or its designated marketing firm and may restrict the usage, conduct, and activity conducted or displayed within or about said model homes, or satellite sales/information centers. No Builder/Owner shall set up a model home, sales/information center without the expressed written permission from Grantor and ACC. All Builders, Buyers and their marketing firms shall abide by the Master Marketing Covenant Agreement. Violation of said agreement is a violation of this Master Declaration. All marketing firms shall accept listings subject to complying with both the Master Marketing Agreement and the Master Declaration. Each designated model shall have underground yard sprinklers and landscaping and all other areas of the Lot shall be kept free from weeds and debris. In the event, the garage of said model homes or sales/information center is used for other than a garage, such garage shall have all extra improvements including, but not limited to, carpet/floor covering, glass doors, special lighting, partitions and business fixtures and furniture removed upon the sale and closing of the model, with a garage door installed and painted as if originally installed. No garage space shall be kept as living household space or sold or represented as being available as such.

SECTION 5.18. Mining and Drilling. No Lot shall be used for the purpose of mining, quarrying, drilling, boring, or exploring for or removing water, steam, oil, gas, or other hydrocarbons, minerals, rocks, stones, gravel, or earth; provided that the Grantor or the Association may, by permit, grant, license or easement, allow drilling for and the extraction of water for use on the Lot.

SECTION 5.19. Vehicles, Boats, Campers, and Other RVs. The use of all vehicles, including but not limited to automobiles, trucks, bicycles, and motorcycles, shall be subject to ACC rules, which may prohibit or limit their use thereof within the Subdivision, provide parking regulations and other rules regulating the same. Trailers, motorhomes, trucks larger than standard pickups, boats, tractors, campers, garden, or maintenance equipment and vehicles other than automobiles, when not in actual use, shall be kept at all times in an enclosed structure or screened from the public view and at no time shall any of these vehicles or equipment be parked or stored on a public or private right of way

within the Subdivision. The primary purpose of the garage required on each Lot is for the parking of automobiles, recreation vehicles or storage. No other use of a garage which prohibits or limits the use of a garage space for the parking or storage for which it is designed shall be permitted including the conversion into living space. The Owner will provide sufficient garage space, or other parking approved by the ACC for all automobiles/RVs used by the occupants of the Owners Lot. No inoperative vehicle shall be parked or stored at any time on a Lot unless wholly within an enclosed structure. A minimum of two (2) off-street parking spaces (driveway) for automobiles shall be provided on each Lot.

SECTION 5.20. Garage Doors. Garage doors shall be closed except when opened for temporary purpose. Garage doors shall be kept in good repair and shall be repaired or replaced if any panels are dented, drooping or inoperable.

SECTION 5.21. Exterior Materials and Colors. All exterior materials and colors shall be selected and used which are approved by the ACC and which are compatible with other buildings on the Lot and on neighboring Lots to the end that all such buildings will present a unified and coordinated appearance. All exterior finishes and/or colors shall be from the color Board as approved by the ACC. Each house shall include some brick, stone, stucco, or other distinctive features on the front exposure per ACC Standards. Roofs shall be composition shingles or architectural composition shingles, selected from the ACC approved shingles chart, and no gravel roofs shall be permitted. Any colors not used from pre-approved color scheme may be required by the ACC to be repainted, reroofed, or resided at the expense of the Builder or Owner. All repainting, reroofing, or residing after the Initial Construction shall be with the colors consistent with the original colors or as specified by the ACC.

SECTION 5.22. Exterior Antennas. Exterior radio, communications or dispatch antennas on the building, roof, fences, outbuildings, trees or free standing are prohibited. Television satellite dishes not exceeding 18" in diameter or cable antennas will be considered, provided that they are not visible to the public or neighbors and are subject to ACC approval. Any television antenna or satellite dish which blocks, hinders or impairs the visibility of a neighbor or is deemed unsightly or visibly offensive by the ACC or physically hinders or impairs other reception and quiet enjoyment by other Lot Owners are prohibited. The ACC shall have the right to remove any antennas deemed offensive.

SECTION 5.23. External Energy Devices. No energy producing devices including, but not limited to, generators of any kind shall be constructed or maintained on any Lot without the prior written approval of the ACC, except for heat pumps or similar appliances shown on the plans approved by the ACC.

SECTION 5.24. Mailboxes. Mailbox stands shall be constructed or installed pursuant to Grantor's design or otherwise required by the ACC. After installation, each Builder or Owner shall be responsible to maintain or replace any damaged mailbox stand. Any replaced mailbox stand shall be of same standard and construction as originally installed or as otherwise required by the ACC.

SECTION 5.25. Fences. No fence, wall, hedge, high planting obstruction or other visual or privacy barrier (hereinafter collectively "fence") of any kind shall be constructed on a Lot unless the plans and specifications therefor, including the location, design, material and color thereof, have been approved in writing by the ACC prior to the construction or installation. It is the intent of the Grantor to create an open, spacious and landscaped appearance throughout the Subdivision and all decisions with respect to fences shall be governed accordingly. All fences constructed on a Lot shall be in compliance with the ACC Standards for the applicable Island Area and the applicable ordinances of City of Nampa; however, the stricter requirement shall govern. No variance of the City of Nampa shall be sought by any Owner without approval from ACC.

All fences or barriers constructed on a Lot shall be subject to the following restrictions:

- (a) No fence shall be permitted to be constructed or installed on any portion of a berm constructed by the Grantor in the Subdivision such that it exceeds the height of the fence installed by the Grantor as part of the landscape easement.
- (b) Fences beyond the front setback of the principal Building on the Lot or higher than six feet (6') shall not be allowed. Exceptions shall only be by prior approval of the ACC.
- (c) Fences on corner or semi-curved Lots shall be set back from the sidewalk a minimum of ten feet (10') with a landscaping border approved by the ACC. Heavy foliage and fences are not allowed to interfere with the vision triangle of traffic.
- (d) Only quality wood or vinyl fences with 1x4 or 1x6 vertical slats will be approved. Chain link or rod iron fences may be used/approved under special circumstances at the sole discretion of the ACC. The type of fencing requirements may vary within each Island Area.
- (e) All fences shall be constructed and installed and maintained in good appearance and condition at the expense of the Owner of the Lot on which they are located and all damaged fencing shall be repaired or replaced to original design, materials and color within a reasonable time after any damage occurs.
- (f) No fence shall interfere with the use and enjoyment of any easement reserved in this Master Declaration or shown on the recorded Subdivision plat of the Property.
- (g) No fence shall be allowed which would unreasonably interfere with the use and enjoyment of neighboring Lots, Common Areas and streets. No fence shall be allowed that constitutes a nuisance or has an undesirable or noxious effect upon neighboring Lots as determined solely by the ACC.

(h) All fences constructed or installed on the interior of a Lot, e.g. dog runs, etc., which are visible from an adjoining Lot or from any street shall be subject to prior approval by the ACC.

(i) Grantor shall have full latitude in the installation of fencing within or at the perimeter of the Subdivision. No marketing brochure, agents or these covenants shall imply or represent the installation of fencing on behalf of any Lot. Owners shall maintain any and all fencing provided by Grantor that is situated along their respective Lot lines.

SECTION 5.26. Landscaping & Storage/Outbuildings. The following provisions shall govern the landscaping of Lots within the Subdivision: Each Lot shall be landscaped per the ACC Standards for each Island Area. Each Builder or Lot Owner shall be responsible to be familiar with the ACC Standards and shall adhere thereto, including the submission of plans if such is required by the ACC.

(a) The Owner shall prepare a landscape plan and shall submit two (2) copies of the same to the ACC as provided in Article XI, below. The ACC shall approve the landscape plan prior to the installation and/or construction of landscaping on a Lot. Landscaping of a Lot shall be in accordance with the approved plan.

(b) A desire for an open, spacious and green growing appearance will guide the landscaping decisions of the ACC. The ACC shall consider overall design features of the improvements to be constructed on the Lot the ACC is reviewing.

(c) The minimum landscaping requirements shall be as follows:

(i) Innovative landscape design, including sculptures, planting areas, berms or other features with screening or bordering of foundations, fences (if any), curbs and other similar elements of the improvements on the Lot.

(ii) The initial landscaping shall include, as a minimum, the following: sod in the front (hydroseeding may be allowed on a case-by-case seasonal basis), sod or grass seed in the side and rear yards; one (1) tree of at least one and one-half inch (1 1/2") caliper in the front yard and one shade or flowering tree of at least one and one-half (1 1/2") caliper in the back yard; provided, that evergreen trees of at least five feet (5') in height may be substituted for one (1) of the trees required in either the front or rear yard; four (4) - five (5) gallon plants and eight (8) - one (1) gallon plants in the front yard.

(iii) The portion of yard visible from the street shall be irrigated with an automatic underground sprinkler system.

(d) Additional landscaping may be required in addition to the above minimum requirements if the ACC in its discretion, reasonably determines additional landscaping to be necessary or desirable to achieve project objectives.

(e) All landscaping shall be maintained in a professional manner. Any plantings provided by Grantor shall remain the Lot Owners and shall be maintained by the Lot Owner. All area adjacent to or within road right-of-ways shall be landscaped and maintained by the Lot Owner.

(f) Unless otherwise provided for or required by the ACC Standards, all required landscaping on a Lot shall be installed within thirty (30) days after the earlier of the following: (i) substantial completion of the Building on the Lot, or (ii) occupancy of the Building by an Occupant, with a reasonable extension for weather.

(g) No storage shed or other outbuildings, or such thereof shall be constructed or moved in with dimensions greater than 140 square feet of floor space and a roof height at its highest point above one hundred inches off of normal graded ground. No building shall be placed on any berm or raised area. All materials of any such building shall conform to the construction of the dwelling and be painted the same color. No storage shed/outbuildings shall have a driveway access or be used for commercial purposes.

SECTION 5.27. Maintenance. The following provisions shall govern the maintenance of Lots and all improvements thereon:

(a) Each Owner of a Lot shall maintain all Improvements located thereon in good and sufficient repair and shall keep the Improvements thereon painted or stained, lawns cut, shrubbery trimmed, windows glazed, rubbish and debris removed, weeds cut and otherwise maintain the same in a neat and aesthetically pleasing condition.

(b) All damage to any Improvements shall be repaired as promptly as is reasonably possible.

(c) A building, which is vacant for any reason shall be kept locked and the windows glazed in order to prevent entrance by vandals. Vacant buildings and unimproved Lots shall not be exempt from the provision of this master declaration.

(d) All structures, facilities, equipment, objects and conditions determined by the ACC, in its sole discretion, to be offensive, shall be enclosed within an approved structure or appropriately screened from public view. All trash, debris, garbage, and refuse shall be kept at all times in a covered container and all such containers shall be kept on a Lot within an enclosed structure or screened from the public view.

(e) No articles, goods, machinery, materials, or similar items shall be stored, kept or maintained on a Lot in the required set-back area along a public or private right of way or otherwise kept in the open or exposed to the public view.

(f) Any event or condition on a Lot which, in the sole discretion of the ACC, creates an unsightly blighting influence, shall be corrected, removed or obstructed from public view, as the case may be, by the Owner of the Lot, notwithstanding the fact that such an event or condition may not be specifically described and/or prohibited in this Master Declaration.

(g) In the event that any Owner shall permit any improvements, including any landscaping, which is the responsibility of such Owner to maintain, to fall into disrepair so as to create a dangerous, unsafe, unsightly, or unattractive condition, Grantor or the ACC or the Board, upon fifteen days prior written notice to the Owner of such Lot, shall have the right to correct such condition, and to enter upon said Lot and into any building or structure thereon, if necessary, for the purpose of correcting or repairing same, and such Owner shall promptly reimburse the Association for the cost thereof. The Owner of the offending Lot shall be personally liable, and such Owner's Lot may be subject to a mechanics lien for all cost and expenses incurred by the Association in taking such corrective action, plus all costs incurred in collecting the amounts due. Each Owner shall pay all amounts due for such work within ten (10) days after the receipt of written demand therefor, or the amounts may, at the option of the Board, be levied as a limited assessment against said Lot and shall be enforceable in the same manner as other assessments set forth in Article VIII of this master declaration.

SECTION 5.28. Subdividing. No Lot may be further subdivided, nor may any easement or any other interest therein less than the whole be conveyed by the Owner thereof without prior written consent of the ACC; provided, however, that nothing herein shall be deemed to prevent an Owner from transferring or selling any Lot to more than one person to be held by them as tenants in common, joint tenants, tenants by the entirety, or as community property, or required approval of the ACC therefor. In addition, the conveyance of an insignificant portion(s) of a Lot to the Owner of the Lot which abuts said conveyed portion for the purpose of correcting a common boundary or other similar purpose, shall not be deemed to be a subdividing of a Lot within the prohibition contained herein.

SECTION 5.29. Exemption of Grantor. Nothing herein contained shall limit the right of the Grantor to subdivide, or re-subdivide, any Lot or portion of the Property or to grant licenses, reservations, rights-of-way, or easements with respect to common areas to utility companies, public agencies, or others; or to complete excavation, grading, and development plans and designs, or construct additional improvements as the Grantor deems advisable in the course of development of the Subdivision. This master declaration shall not limit the right of the Grantor at any time prior to acquisition of title to a Lot by a Owner to establish on that Lot additional licenses, restrictions, reservations, rights-of-way and easements to itself, to utility companies and to other, as may from time to time be reasonably necessary. The Grantor need not seek or obtain ACC approval of any improvements constructed or placed within the Property by the Grantor in connection with the development of the Subdivision, but this exemption shall not apply to a building(s) constructed by the Grantor on a Lot owned by the Grantor. The Grantor shall be entitled to the non-exclusive use, without charge, of any common areas within the Subdivision in connection with marketing of the Lots therein.

Grantor may elect to sell and/or trade a portion of future subdivision property to the Nampa School District for an elementary school site.

The property is located in a semi-rural area adjacent to existing farm ground and homesites having cows and/or horses with the use thereof might at times be offensive to a Lot Owner.

SECTION 5.30. Easements. There is hereby reserved for the use and benefit of the Grantor and granted for the use and benefit of each Lot, and for the use and benefit of each Owner and Occupant, and for the use and benefit of the Association, and their successors and assigns, for the purposes incident to such use, development and maintenance of the Property, the following easements:

- (a) For the installation and maintenance of public utility facilities of all kinds, including radio and television and transmission cables, the easements so designated on the recorded Subdivision plat(s) for the Subdivision.
- (b) For the purpose of permitting the Grantor or the Association, their contractors and agents, to enter onto those portions of Lots contiguous to any Common Area to maintain, replace and restore landscaping and other improvements within the Common Area.
- (c) Reciprocal appurtenant easements of encroachment, not to exceed one foot (1'), as between each Lot and such portion(s) of the Common Area adjacent thereto, or between adjacent Lots, due to the unintentional placement or settling or shifting of the improvements constructed thereon, which easements of encroachment shall be valid so long as they exist and the rights and obligations of Owners shall not be altered in any way by said encroachments, settling or shifting; provided, however, that in no event shall a valid easement for encroachment occur due to the willful act or acts of an Owner.
- (d) The following Lots are subject to a common driveway, ingress/egress, cross easement that shall run with the land:
Lots 44 and 45 of Block 3 (Group A)

The Lots in each of the above groups share the common driveway adjacent to all the Lots with the group. Each Lot within a Group is required to take its vehicular access from the common driveway and not directly from the public road. Parking is not allowed on common driveway at anytime. Additional groups may be added as additional plats, blocks are annexed herein.

(e) The Owners of those Lots containing gravity irrigation or storm drain clean out boxes shall keep said boxes accessible at the top of the boxes respectively. This shall not preclude fencing around said box. Lots 1, 44, 45 and 49 Block 3 include a storm retention

pond easement and physical improvements for the Subdivision storm system. The detention area on Lot 49, Block 3 shall be landscaped and maintained by the Association; however, said area shall not be filled thereby diminishing or eliminating its usefulness as a storm sewer system. Owners of storm retention areas may contact the ACC or City of Nampa on allowable plantings and uses in these areas. Lot 1 Block 3 may also include sewer and electrical easements to service properties outside the Subdivision.

(f) The easement areas (excluding any equipment or appurtenances owned by the Grantor, the Association or utility company located thereon) herein reserved shall be maintained by the Owner of the Lot upon which they are situated.

(g) No Improvements shall be placed or permitted to remain on such easement areas located within any Lot which shall interfere with the intended use or purpose of such easement(s), and no other activity shall be undertaken on any Lot which may interfere with the use and access intended to be provided by such easement or the installation of maintenance of the utilities or other facilities, if any, located thereon or therein.

(h) Common area Lot 1 Block 6 and Lot 1 Block 7 and others annexed hereafter containing parking spaces shall be available and may be used by the Owners or Occupants of those Lots directly across or adjacent from these Lots. Notwithstanding the foregoing, so long as Grantor or Grantor's designated marketing firm maintains a sales center on Lot 2 Block 2, the parking spaces in Lot 1 Block 6 may be used by sales center agents, marketing firm employees or customers.

(i) Any additional easements, if any as shown and designated on the recorded Subdivision plat for the Subdivision.

ARTICLE VI

Association

SECTION 6.01. Organization of Association. The Islands Subdivision Homeowners Association, Inc. shall be organized by the Grantor as an Idaho non-profit corporation and shall be charged with the duties and vested with the powers prescribed by law and set forth in its Articles of Incorporation, its By-Laws and this Master Declaration. Neither said Articles nor said By-Laws shall, for any reason, be amended or otherwise changed or interpreted so as to be inconsistent with this Master Declaration.

SECTION 6.02. Sub-Association(s). Until completion of the Development, Grantor shall have the sole and absolute right to create one or more Sub-Associations for purposes not inconsistent with this Master Declaration including, but not limited to, the following which shall be provided for in a Supplemental Declaration:

- (a) Acquire and improve any Lot, tract, parcel or portion of the Subdivision.
- (b) Promulgate rules and regulations governing Common Area owned by or under the control of the Sub-Association.
- (c) Determine the services, in addition to those furnished by the Association, which are to be furnished to or for the benefit of the Members of the Sub-Association.
- (d) Assess and certify to the Association for the collection the Regular, Special and Limited Assessments required to meet the estimated cash needs of the Sub-Association.

The Articles of Incorporation, By-Laws, rules and regulations and the Supplemental Declaration relating to a Sub-Association shall not be inconsistent with the terms and provisions of this Master Declaration and any inconsistency shall be governed by this Master Declaration. Unless earlier consented to in writing by the Grantor, after completion of Development of the Subdivision, Sub-Associations may be formed by any Owner or group of Owners with the approval of the Board and by satisfying all necessary legal requirements including, but not limited to, the properties, extension and recording of a Supplemental Declaration.

Except as provided to the contrary in this Master Declaration or unless specifically provided to the contrary in the Supplemental Declaration relating to a Sub-Association, the provisions of this Article shall be applicable to and shall regulate each Sub-Association.

SECTION 6.03. Relationships Between Association and Sub-Associations. It is the purpose and intent of the provisions of this Master Declaration that the Association shall be charged with and responsible for the management of all activities in the Subdivision including, in addition to all other duties and responsibilities set forth herein, the following:

- (a) The approval of all rules and regulations of each Sub-Association and providing assistance to a Sub-Association in the enforcement thereof; and
- (b) The levy and collection of Assessments of each Sub-Association which have been certified by the Sub-Association Board to the Association.

Nothing herein contained shall restrict or prohibit a Sub-Association from owning in its own name, Common Area or other property related thereon, the use of which shall be restricted to Members of that Sub-Association. However, it is the intent of this Master Declaration that any such Common Area owned by a Sub-Association, the use and maintenance thereof and the activities of the Sub-Association, shall be consistent

with and in furtherance of the Project Objectives and the terms and provisions of this Master Declaration to secure that the whole of the Subdivision is developed and approved as a quality residential community.

SECTION 6.04. Members. Each Owner (including the Grantor) of a Lot by virtue of being such as Owner and for so long as such ownership is maintained shall be a Member of the Association and no Owner shall have more than one membership in the Association, but shall have such voting rights as hereafter set forth. A membership in the Association shall not be assignable, except to successor-in-interest of the Owner and a membership of the Association shall be appurtenant to and inseparable from the Lot owned by such Owner. A membership in the Association shall not be transferred, pledged or alienated in any way except upon the transfer of title to said Lot and then only to the transferee of title to said Lot. Any attempt to make a prohibited transfer of a membership shall be void and shall not be reflected on the books of the Association.

SECTION 6.05. Voting. The Association (and each Sub-Association) shall have two (2) classes of voting membership:

Class A. Class A Members shall be all Owners of Lots within the Subdivision, with the exception of the Grantor, and shall be entitled to one (1) vote for each Lot owned.

Class B. Class B Members shall be the Grantor, and its successor(s) in title to a Lot(s), for resale to a builder or other person for the purpose of constructing thereon a residential dwelling as the sale/resale of Lot with improvements already built thereon, and to which successor the Grantor has specifically granted such Class B voting rights in writing; provided, that if such voting rights are not so granted, such successor shall be entitled to the voting rights of a Class A Member with respect to each Lot owned. Upon the first sale of a Lot to an Owner, the Grantor shall thereupon be entitled to four (4) votes for each Lot owned by the Grantor. The Class B Membership shall cease and be converted to Class A Membership when (1) 75% of the units are deeded to homeowners; or, (2) January 1, 2010, whichever shall first occur.

SECTION 6.06. Board of Directors and Officers. The affairs of the Association shall be conducted by a Board of Directors and such officers as the Directors may elect or appoint, in accordance with the Articles and By-Laws, as the same may be amended from time to time.

SECTION 6.07. Powers of Association. The Association shall have all powers of a non-profit corporation organized under the laws of the State of Idaho subject only to such limitations as are expressly set forth in the Articles, By-Laws or this Master Declaration. It shall have the power to do any and all lawful things which may be authorized, required or permitted to be done under the Articles, By-Laws or this Master Declaration, and to do and perform any and all acts which may be necessary or proper for, or incident to, the proper management and operation of the Common Areas and the performance of other responsibilities including, but not limited to, the following:

- (a) **Assessments.** The power to levy Regular, Special and Limited Assessments on the Owners and/or Lots and to enforce payment thereof in accordance with the provisions of this Master Declaration.
- (b) **Right of Enforcement.** The power and authority from time to time in its own name, on its own behalf or on behalf of any Owner(s) who consent thereto, to commence and maintain actions and suits to restrain and enjoin any breach or threatened breach of the Articles, By-Laws, Master Declarations or ACC Standards, and to enforce by mandatory injunction or otherwise, all provisions thereof.
- (c) **Delegation of Powers.** The authority to delegate its power and duties to committees, officers, employees or to any person, firm or corporation to act as manager.
- (d) **Liability of Board Members and Officers.** Neither any member of the Board nor any officers of the Association shall be personally liable to any Owner, or to any other party, for any damage, loss or prejudice suffered or claimed on account of any act or omission of the Association, the Board, its officers, a manager or any other representative or employee of the Association, or the ACC, provided that said Board Member, officer, manager or other person has, upon the basis of such information as was available, acted in good faith without willful or intentional misconduct.
- (e) **Association Rules.** The power to adopt, amend and repeal such rules and regulations as the Association deems reasonable. Such rules shall govern the use by Owner and Occupants or any other person of Common Area and other property owned or controlled by the Association; provided, however, Association rules shall not discriminate among Owners and shall not be inconsistent with the Articles, By-Laws or this Master Declaration. A copy of Association rules as they may from time to time be adopted, amended or repealed, shall be mailed or otherwise delivered to each Owner and Occupant. Upon such mailings said Association rules shall have the same force and effect as if they were set forth in and were part of this Master Declaration. In the event of any conflict between an Association rule or any provision of the Articles, By-Laws or this Master Declaration, the conflicting provisions of the Association rules shall be deemed superseded to the extent of any such inconsistency.
- (f) **Emergency Power.** The Association, or any person authorized by the Association, may enter onto any Lot or into any Building or other structure on a Lot in the event of any emergency involving illness or potential danger to life or property or when necessary in connection with any maintenance or construction for which it is responsible. Such entry shall be made with as little inconvenience to the Occupants as practicable and any damage caused thereby shall be repaired by the Association unless said entry was necessitated by a condition caused by the Owner or Occupant.
- (g) **Licenses, Easements and Rights-of-Way.** The power to grant and convey to any third party such licenses, easements, rights-of-way or fee title in, on, through, under or of the Common Areas as may be necessary or appropriate for the orderly maintenance,

preservation and enjoyment thereof and for the preservation of health, safety, conveniences and welfare of the Owners, for the purpose of constructing, erecting, operating or maintaining:

- (i) Underground lines, cables, wires, conduits and other devices for the transmission of any utility or other service.
 - (ii) Public sewers, storm drains, water drains and pipes, water systems, sprinkling and irrigation water systems, water, heating and gas lines or pipes.
 - (iii) Any similar public or quasi-public improvements or facilities.
- (h) Fiscal Year. The Board shall have the right to elect a fiscal year for the Association instead of a calendar year for budget, Assessment and accounting purposes.

SECTION 6.08. Duties of Association. In addition to the powers delegated to it by the Articles, By-Laws and this Master Declaration, without limiting the generality thereof, the Association or its authorized agents, if any, shall have the obligations to conduct all business affairs of common interest to all Owners and to perform each of the following duties:

- (a) Operation and Maintenance of Common Areas. Perform, or provide for the performance of, the operation, maintenance management of the Common Areas and any City of Nampa Greenbelt Areas including the repair and replacement of property or Improvements thereon changed or destroyed by casualty loss and all other property owned or maintained by the Association.
- (b) Taxes and Assessments. Pay all real and personal property taxes and assessments, separately levied against the Common Areas owned by the Association or against the Association and/or any property owned by the Association. Such taxes and assessments may be contested or compromised by the Association; provided, however, that they are paid or a bond insuring payments is posted prior to the sale or the disposition of any property to satisfy the payment of such taxes. In addition, the Association shall pay all other taxes, federal, state or local, including income or corporate taxes, levied against the Association in the event that the Association is denied the status of a tax exempt corporation.
- (c) Utilities. Acquire, provide and/or pay for water, sewer, refuse collection, electrical, telephone, gas and other necessary services for the Common Areas owned by the Association.
- (d) Insurance. Obtain from reputable insurance companies authorized to do business in the State of Idaho and maintain in effect the following policies of insurance.
 - (i) Fire insurance, including those risks embraced by coverage of the type now known as the broad form "All Risk" or special extended coverage endorsements or a blanket agreement amount basis for the full insurable replacement value of all Improvements, equipment, fixtures and other property located within the Common Areas owned by the Association, including such equipment, fixtures and other property not located in the Common Areas. If the same are used or necessary for the use of the Common Areas or easement areas under the control of the Association.
 - (ii) Comprehensive public liability insuring the Association, the Board, officers, the Grantor and the individual Owners and agents and employees of each of the foregoing against any liability incident to the ownership and/or use of the Common Areas owned by the Association or easement areas under the control of the Association. The limits of liability of each coverage shall be as determined by the Board of Directors.
 - (iii) Full coverage directors and officers liability insurance in an amount determined by the Board.
 - (iv) Such other insurance, including workman's compensation insurance to the extent necessary to comply with all applicable laws and indemnity, faithful performance, fidelity and other bonds as the Board shall deem necessary or required to carry out the Association's functions or to insure the Association against any loss from malfeasance or dishonesty of any person charged with the management or possession of any Association funds or other property.
 - (v) The Association shall be deemed a trustee of the interests of all Owners in any insurance proceeds paid to it under such policies, and shall have full power to receive their interest in such proceeds and to deal therewith.
 - (vi) Insurance premiums for the above insurance coverage shall be deemed a common expense to be included in the Regular Assessment levied by the Association.
 - (vii) Notwithstanding any other provision herein to the contrary, the Association shall continuously maintain in effect such casualty, liability and other insurance and a fidelity bond meeting the insurance and fidelity bond requirements for PUD projects established by Federal National Mortgage Association ("FNMA"), the Government National Mortgage Association ("GNMA") and the Federal Home Loan Mortgage Corporation ("FHLMC"), so long as any of which is a Mortgagee or Owner of a Lot within the Subdivision, except to the extent such coverage is not available or has been waived in writing by FNMA, GNMA or FHLMC, as applicable.

- (e) Identification Signs. Maintain, repair and replace all permanent entry and special identification signs for the Subdivision, whether the same be located within or without the boundaries of the Subdivision.
- (f) Rule Making. Make, establish, promulgate, amend and appeal Association rules.
- (g) Architectural Control Committee. Appoint and remove members of the Architectural Control Committee, all subject to the provisions of this Master Declaration.
- (h) Enforcement of Restrictions and Rules. Perform such other acts, whether or not expressly authorized by this Master Declaration, as may be reasonably necessary to enforce any of the provisions of this Master Declaration and the Association rules.

SECTION 6.09. Budgets and Financial Statements. Financial statements for the Association shall be regularly prepared and copies distributed to each Member as follows:

- (a) A proforma operating statement (budget) for each fiscal year shall be distributed not less than thirty (30) days after the beginning of each fiscal year.
- (b) Within ninety (90) days after the close of each fiscal year, the Association, or its agent shall cause to be prepared and delivered to each Owner, a balance sheet as of the last day of the Association's fiscal year and an annual operating statement reflecting the income and expenditures of the Association for that fiscal year.

ARTICLE VII

ASSOCIATION PROPERTIES

SECTION 7.01. Use. Each Owner of a Lot, his family, licensees, invitees, lessees and contract purchasers who reside on the Lot, shall be entitled to use the Association properties and the properties of any Sub-Association of which the Owner is a Member subject to the following:

- (a) Articles, Etc. The provisions of the Articles and By-Laws of the Association and any Sub-Association applicable to the Lot, this Master Declaration and applicable Supplemental Declaration and the rules, regulations and standards promulgated thereunder. Each Owner, in using the Association or Sub-Association properties, shall comply with the same.
- (b) Suspension of Rights. The right of the Association or Sub-Association to suspend the rights to use properties owned by it (except roads and other means of access by an Owner) for any period during which any Assessment against that Owner's Lot remains unpaid; and for any infraction or published rules and regulations of the Association or Sub-Association.
- (c) Transfer of Properties. All properties transferred in ownership by the Declaration shall be conveyed free and clear from any mortgages or encumbrances.
- (d) Dedications. The right of the Association or Sub-Association to dedicate or transfer all or any part of properties owned by it to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed by the Board, so long as said transfer does not diminish the security of the Mortgagees on any Lot or Common Area in the Subdivision.
- (e) Mortgage or Conveyance of Common Areas. Except as provided in subsection (c) above, no portion of the Common Area shall be mortgaged or conveyed by the Association without the prior approval of at least two-thirds (2/3) of the Class A Members, which approval may be obtained in writing or by a vote of the Class A Members at a meeting called for each purpose and with respect to such meeting.

SECTION 7.02. Damages. An Owner shall be liable for any damages to the Common Area which may be sustained by reason of negligence, reckless or intentional misconduct of said Owner or his family, licensees, invitees, lessees or contract purchasers, both minor and adult. In the case of joint ownership of a Lot, the liability of such Owners shall be joint and several. The cost of correcting such damage shall be as a Limited Assessment against the Owner's Lot and may be collected as provided in Article VIII, below.

SECTION 7.03. Damage and Destruction. In the case of damage by fire or other casualty to property owned by the Association or any Sub-Association, insurance proceeds to compensate for damage and destruction shall be paid to the Association or Sub-Association, as the case may be, and the recipient thereof shall thereafter determine what repair or reconstruction shall be undertaken.

SECTION 7.04. Condemnation. If at any time any part of a Common Area or other property owned by the Association or any Sub-Association be taken or condemned by any public entity or sold or otherwise disposed of in lieu thereof, all compensations, damages or other proceeds shall be paid to the Association or the Sub-Association, whichever entity owns said property. The recipient of said payment shall then use all or a portion of the funds to pay obligations secured by any lien on the property taken and thereafter may determine to use the funds to (a) improve other properties of the Association or Sub-Association; (b) acquire and/or improve additional properties for the Association or Sub-Association; or (c) use such proceeds to reduce future assessments.

ARTICLE VIII

ASSESSMENTS

SECTION 8.01. Covenant to Pay Assessments. Each Owner hereby, and by acceptance of a deed to a Lot, covenants and agrees to pay when due all Regular, Initial, Special and Limited Assessments or charges made by the Association or a Sub-Association of which the Owner is a Member.

All such Assessments, together with interest, costs and reasonable attorney's fees which may be incurred in collecting the same, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such Assessment is made, and shall be also the personal obligation of the Owner of such Lot at the time when the Assessment becomes due and payable, provided, however, that all such assessments shall be junior and subordinate to the lien of a first Mortgage or first Deed of Trust encumbering the Lot. The personal obligations for delinquent Assessments shall not pass to an Owner's successors in title unless expressly assumed by them. No Owner may waive or otherwise avoid liability for any Assessment by non-use of the Common Area or by abandonment of his Lot.

SECTION 8.02. Regular Assessments. Regular Assessments shall be assessed on a calendar year basis unless otherwise determined by the Board. The Regular Assessment shall be based upon advance estimates of accrual, cash requirements as determined by the Board for the maintenance and operation of the Common Areas and all easement areas, if any, controlled by the Association and for the performance by the Association of its other duties and responsibilities. Such estimates may include, but shall not be limited to, expenses of management, taxes and special assessments of local governmental units, premiums for all insurance which the Association is required or permitted to maintain hereunder, landscaping and care of grounds, lighting, water charges, trash collection, sewerage charges, repair and maintenance, legal and accounting fees, and any deficit remaining from previous periods and the creation or reserve, surplus and/or sinking fund(s).

The initial annual Repair Assessment for the calendar year during which the Grantor conveys fee title to a Lot to an Owner shall be the amount of \$120.00 per Lot which shall be paid upon the conveyance of title to the Lot by the Grantor to an Owner, and thereafter \$120.00 per calendar year until changed by the Board. The Board may increase the dues by up to ten percent (10%) per calendar year.

SECTION 8.03. Initial Set-Up Assessment. A one time Set-Up Assessment shall be assessed at the time the Grantor transfers title to the Initial Lot Owner for the purpose of defraying, in whole or in part, the costs of creation of the Association as well as provision for any of the items described in Articles VI through X.

- (a) The Initial Set-Up Assessment for all Lots may be paid in advance, in whole or in part, by the Grantor and reimbursed to same at time of closing on the purchase of a Lot.
- (b) The Initial Set-Up Assessment for the following Island Areas shall be:

Northern Reef	\$250.00	Cedar Grove	\$150.00	The Narrows	\$100.00
Sierra Cove	\$100.00	Harbour Springs	\$150.00		

Each Island Area shall have fees set at the time of annexation.

- (c) Grantor shall be reimbursed for any and all expenses connected with the Association and provisions thereof.

SECTION 8.04. Special Assessments. In addition to Regular Assessments, the Association may levy at any time a Special Assessment payable over such period as the Board may deem appropriate for the following purposes:

- (a) To defray, in whole or in part the cost of any construction or reconstruction of Improvements on a Common Area, unexpected repair or replacements of Common Area or any facility located thereon or an easement area controlled by the Association, the furnishing of a special service or services (other than those appropriate for a Limited Assessment), or for any expenses incurred or to be incurred as provided in this Master Declaration.
- (b) To cure a default in the common and ordinary expenses of the Association for which Repair Assessment for a given calendar fiscal year are or will be inadequate to pay, as determined by the Board.

SECTION 8.05. Limited Assessments. In addition to Regular and Special Assessments, Owners shall pay Limited Assessments as follows:

- (a) Maintenance and Repair. The Association shall have the power to incur expenses for maintenance and repair of any Lot or any improvements on a Lot, if such maintenance and repair is necessary, in the opinion of the Board, to protect the Common Area or

any other portion of the Property, and if the Owner of said Lot has failed or refused to perform said maintenance or repair within a reasonable time after written notice of the necessity thereof has been delivered by the Board to said Owner. The Board shall levy a Limited Assessment against the Owner of the Lot owned by said Owner to pay for the cost of such maintenance and repair, and any other cost or expense, including attorney's fees, arising out of or incident to such maintenance and repair and the Assessment thereof.

(b) Correction of Violations. In addition to maintenance and repair, the Board, upon certification from the ACC or the failure or refusal of an Owner to correct a violation of this Master Declaration or the ACC Standards, shall have the power to correct any such violation on a Lot or any Improvement on a Lot, and incur costs necessary in connection therewith. The cost of such corrective action, together with interest, related expenses and attorney's fees shall be assessed and collected as set forth in Article IX of this Master Declaration.

(c) Limited Purposes. The Association shall have the power to levy a Limited Assessment against Owners and Lots for any limited special purpose which the Board believes necessary with respect to certain Lots but not an appropriate expense for payment by the Association. Such Limited Assessments shall not be made until the Owners of said Lots subject thereto have been given an opportunity, after notice, to participate in a hearing with respect to said Limited Assessment.

SECTION 8.06. Sub-Association Assessments. Any Sub-Association of the Subdivision is hereby empowered to assess and certify for levy and collection by the Association, Regular, Special and Limited Assessments on the Lots and Owners thereof who are Members of the Sub-Association. The certification for levy by a Sub-Association and the collection thereof by the Association shall be as follows:

(a) The Sub-Association Board shall, following its By-Laws, rules and regulations, meet and approve a Regular, Special or Limited Assessments.

(b) A written certification signed by the President and Secretary of the Sub-Association that a Regular, Special or Limited Assessment has been approved by the Sub-Association Board shall be submitted to the Board. The certification shall contain the following: (i) a description of the type of Assessment to be levied and collected; (ii) the name and address of the Owner and the legal description of each Lot to be assessed; (iii) the amount to be levied and collected from each Owner; and (iv) the term of said levy and the due dates for the payment thereof by the Owners affected. The due dates may be adjusted by the Board to conform the same to the due dates of the Assessments of the Association for the purpose of achieving efficiency and economy in preparing and mailing statements and notices and collection.

(c) Upon compliance with the foregoing, the Board shall levy the Assessment so certified in accordance with the terms of the certification in the same manner as levies for Assessments of the Association. Any levy made by the Association on behalf of a Sub-Association pursuant to a proper certification shall have the same force and effect as a levy made by the Association.

(d) The Association, upon receipt of funds paid pursuant to a levy certified by a Sub-Association, shall deposit such funds as received in the separate account of the Sub-Association, as designated by the Sub-Association.

SECTION 8.07. Commencement of Regular Assessments. Regular Assessments of the Association against each Lot shall commence on the date the Grantor conveys title to the Lot to an Owner. Nothing herein contained shall obligate the Grantor to pay any Assessment with respect to a Lot within the Subdivision or a separately platted phase or Subdivision within the Subdivision in which the Grantor owns all of the Lots.

SECTION 8.08. Uniform Rate of Assessment. Except as expressly provided to the contrary in this Master Declaration, Regular and Special Assessments of the Association shall be fixed at a uniform rate for all Lots.

SECTION 8.09. Assessment Due Date. The due dates for Regular, Special and Limited Assessments shall be the first day of the first month of each calendar quarter, unless some other due date is established by the Board. Each installment of an Assessment shall be delinquent if not paid within fifteen (15) days after the due date thereof. Nothing herein contained shall prohibit the Board from requiring that Special or Limited Assessments be paid in a lump sum instead of installments.

SECTION 8.10. Interest and Penalties. Any Regular, Special or Limited Assessment levied by the Association on Lots, if not paid when due, shall bear interest at an annual rate as shall be set by the Board from time to time, or if none is so set, at an annual rate of twelve percent (12%). Such interest shall commence on the date the Assessment becomes due and payable. In addition to the interest charge the Board may, in accordance with rules and regulations promulgated by it, impose additional fines or charges for the failure of an Owner to timely pay any Assessment when due. The right of the Board to charge interest or impose additional fines or charges shall be in addition to, and not in lieu of, any other right of enforcement or sanction available to the Board in the event of non-payment of an Assessment.

SECTION 8.11. Estoppel Certificate. The Association, upon not less than twenty (20) days prior written request, shall excuse, acknowledge and deliver to the party making such request a statement in writing stating whether or not to the knowledge of such Association, a particular Owner is in default under the provisions of this Master Declaration and further stating the dates to which Assessments have been paid by said Owner, it being intended that any such certificate delivered pursuant to this Section may be relied upon by any prospective purchaser or Mortgagee of said Lot, but reliance on such certificate may not extend to any default as to which the signer shall have had no actual knowledge. The Association shall have the right to charge a reasonable fee for the certification herein provided.

ARTICLE IX

ENFORCEMENT OF ASSESSMENTS

SECTION 9.01. Right to Enforce. The right to collect and enforce payment of the Assessments made by the Association (including the Assessments made and certified by a Sub-Association) is vested in the Association. Each Owner of a Lot hereby agrees to the enforcement of the payment of all Assessments in the manner herein provided. In the event an attorney is employed for the collection of an Assessment, whether by suit or otherwise, or to enforce compliance with or specific performance of any of the terms and conditions of this Master Declaration, the Owner against whom such enforcement is sought shall pay reasonable attorney's fees in connection therewith.

SECTION 9.02. Creation of Assessment Liens. There is hereby created a continuing claim of lien with power of sale on each and every Lot to secure payment of any and all Assessments levied against any and all Lots in the Subdivision pursuant to this Master Declaration, together with interest thereon and all costs of collection which may be paid or incurred by the Association in connection therewith, including reasonable attorney's fees. Said lien shall be prior and superior to all other liens or claims created subsequent to the recordation of this Master Declaration except only for: (i) valid tax and special assessment liens on Lots in favor of any governmental unit assessing authority; (ii) a lien for all sums unpaid and secured by a first Mortgage or Deed of Trust, duly recorded in Canyon County, Idaho, including all unpaid obligatory advances to be made pursuant thereto; and (iii) labor or materialman's liens, if the same are prior and superior by reason of applicable law. All other lien holders acquiring liens on any Lot after recordation of this Master Declaration shall be deemed to consent that such liens shall be inferior liens to the lien for Assessments levied by the Association, whether or not such consent is specifically set forth in the instruments creating such other liens.

SECTION 9.03. Notice of Assessments. If an Owner fails to pay an Assessment within thirty (30) days of its due date, the Association shall prepare a written Notice of Assessment setting forth the type of Assessment, the amount of the Assessment, the due date thereof, including the amount and due date of installments (if the same are permitted), the amount remaining unpaid at the time of filing, the name of the record Owner of the Lot and a legal description of the Lot. Such Notice shall be signed by the President and Secretary of the Association, acknowledged by a Notary Public and recorded in the office of the Canyon County Recorder. At such time as a delinquent Assessment which is described in the Notice is paid, the Association shall prepare and record a Notice of Satisfaction with respect thereto.

SECTION 9.04. Enforcement. Upon the failure of an Owner to pay an Assessment in accordance with its terms, the lien for Assessments herein created may be enforced by sale of the Association, such sale to be conducted in the manner provided by law in Idaho for the exercise of the power of said in Deeds of Trust or in any other manner permitted by law elected by the Board. In any such foreclosure, the Owner shall be required to pay the costs and expense of such proceedings, including all reasonable attorney's fees. All such costs and expenses shall be secured by the lien being foreclosed. The Owner shall also be required to pay to the Association any Assessments against the Lot which shall become due during the period of foreclosure. The Association shall have the right and power to bid at the foreclosure sale or other legal sale and to acquire and thereafter hold, convey, lease, rent, encumber, use and otherwise deal with and in said Lot as the Owner thereof.

SECTION 9.05. Notice Required. Notwithstanding anything to the contrary contained in this Master Declaration, no action may be brought to foreclose the lien for any Assessment, whether by power of sale or otherwise, until the expiration of thirty (30) days after written Notice of Default has been deposited in the United States mail, certified or registered mail, postage prepaid, return receipt requested, addressed to the Owner of the Lot described in such Notice as the last known address of the Owner as shown on the books and records of the Association. Said Notice shall specify the amount and due date of the unpaid Assessment(s) and the legal description of the Lot.

SECTION 9.06. Reporting. The Association shall provide a Mortgagee with a copy of a Notice of Default served on an Owner under Section 9.05 above. The duty to give such Notice shall arise only after the Mortgagee furnishes to the Association written notice of Mortgage (or Deed of Trust) which shall contain the following:

- a) The name and address of said Mortgagee; b) A legal description of the Lot subject to the lien of the Mortgage by Lot, Block and Subdivision; c) The name and address of the Owner; d) The date the lien of the Mortgage was filed of record in Canyon County, Idaho, and the instrument number thereof; e) The maturity date of the obligation secured by said Mortgage lien; f) A copy of a title insurance report evidencing that the Mortgagee is the holder of a first Mortgage or the beneficiary of a first Deed of Trust; and, g) The signature of the Mortgagee or authorized agent.

In the event the Association shall be required to notify a Mortgagee as herein provided, the Association shall assess the Owner who is delinquent the sum of \$25.00 as a reasonable charge for such notification and such charge shall be a cost of collection secured by the Assessment liens described in Section 9.02, above. The charge for such notification shall be subject to change by the Board.

SECTION 9.07. Term of Assessments. Unless sooner satisfied and released or the enforcement thereof initiated as provided in this Article, the lien for any Assessment levied under this Master Declaration or any applicable Supplemental Declaration shall expire and be of no further force or effect after a period of five (5) years from the later of (i) the date of said Assessment, or (ii) the date the last installment thereof is due and payable. Provided that the expiration of the lien as provided herein shall not release an Owner from the personal obligations to pay any Assessment.

SECTION 9.08. Non-Exclusive Remedy. The remedies set forth in this Article or elsewhere in this Master Declaration shall not be deemed to be an exclusive remedy and the Association may pursue all other remedies available at law or in equity.

ARTICLE X

SUB-ASSOCIATIONS

SECTION 10.01. Creation. The Grantor shall have the right to create one or more Sub-Associations as an Idaho non-profit corporations. Each such Sub-Association shall have all power, rights, obligations, responsibilities and duties and be subject to all of the same limitations and restrictions as are specified in this Master Declaration with respect to the Association, except for such differences, requirements or limitations as are expressly set out in this Master Declaration and/or the applicable Supplemental Declaration and such changes as the Grantor may deem appropriate as a result of the different and specific Common Area being owned, maintained and managed by such Sub-Association, which changes shall be set forth in a Supplemental Declaration.

SECTION 10.02. Voting. Each Sub-Association shall have the two (2) classes of voting membership and the voting rights shall be as specified for the Association in Section 6.05, above.

SECTION 10.03. Powers and Duties. Each Sub-Association shall be managed by a Board of Directors and officers in the same manner as specified in Section 6.06, above, for the Association and shall have the same powers and duties with respect to its Members and the Common Areas owned, managed or maintained by it, including any easement areas controlled by it, said powers and duties to include the levying of Assessments and certification thereof to the Association for collection, adopting rules and regulations, granting easements, licenses and rights-of-way, payment of expenses, taxes, assessments, utility charges, insurance premiums and the preparation and distribution of budgets and financial statements as are provided in Article VI, above.

SECTION 10.04. Members. The Members of each Sub-Association shall be the Owners of Lots in the portion or phase of the Subdivision described in the Supplemental Declaration relating thereto. Memberships may only be transferred in the same manner as specified in Section 6.04, above.

ARTICLE XI

ARCHITECTURAL CONTROL COMMITTEE

SECTION 11.01. Members of the Committee. The Architectural Control Committee shall be comprised of at least three (3) persons, all of whom shall be appointed as herein provided. A member of the ACC shall hold office until he has resigned or has been removed, but in any event, until said Member's successor has been appointed. Members of the ACC may be removed at any time, with or without cause.

SECTION 11.02. Appointment. So long as the Grantor owns any Lot or parcel within the Property, the Grantor shall have the sole right to appoint and remove all members of the ACC. Thereafter, all members of the ACC shall be appointed or removed by the Board.

The ACC shall have the right by a resolution in writing unanimously adopted, to designate one (1) of its members to take any action or perform any duties for and on behalf of the ACC. In the absence of such designation, the vote of any two (2) members of the ACC shall constitute an act of the ACC.

SECTION 11.03. Compensation. The members of the ACC shall not receive any compensation for services rendered, but shall be reimbursed for actual expenses incurred by them in the performance of their duties hereunder, except as provided for herein.

SECTION 11.04. Non-Liability. Neither the ACC, or any member thereof, or the Grantor or any partner, officer, employee, agent, successor or assign thereof, shall be liable to the Association, any Owner or any other person for any loss, damage or injury arising out of or connected with the performance by the ACC of its duties and responsibilities by reason of a mistake in judgment, negligence or nonperformance arising out of or in connection with the approval or disapproval or failure to approve an application. Every person who submits an application to the ACC for approval of plans and specifications agrees, by submission of such an application, and every Owner or Occupant of any Lot agrees, by acquiring title thereto or an interest therein, not to bring any action or suit against the Association, the ACC or any member thereof, or the Grantor or any officer, partner, employee, agent, successor or assign thereof to recover such damages.

SECTION 11.05. Approval Required. No construction, alteration, modification, removal or destruction or any Improvements of any nature whatsoever, whether real or personal in nature, shall be initiated or be permitted to continue or exist within the Subdivision without the prior express written approval of the ACC.

SECTION 11.06. Variances. The ACC may authorize variances from compliance with the requirements of any conditions and restrictions contained in this Master Declaration, the ACC Standards, or any prior approval when, in the sole discretion of the ACC, circumstances such as topography, natural obstructions, aesthetics or environmental considerations or hardships may so require. Such variances must be evidenced in a writing signed by a least two (2) members of the ACC.

If a variance is granted as provided herein, no violation of this Master Declaration, ACC Standards, or prior approval shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of such a variance shall not operate to waive any of the terms and provisions of this Master Declaration or the ACC Standards for any purpose except as to the particular subject matter of the variance and the specific Lot covered thereby.

The ACC shall have the right to consider and grant a variance as herein provided either with or without notice to other Owners or a hearing.

The granting of a variance by the ACC pursuant to this Section shall not relieve the Owner from the obligation to fully comply the applicable ordinances of the City of Nampa, Idaho.

SECTION 11.07. Application. To request ACC approval for the construction, alteration, modification, removal or demolition of any Improvements within the Property, the Owner or prospective Owner shall submit a written application in a form required by the ACC which must be signed by the Owner and contain all information requested and be accompanied by all other material to be submitted as hereinafter provided.

All applications must contain, or have submitted therewith, two (2) copies of each of the following (collectively called "plans and specifications") prepared in accordance with acceptable architectural standards and submitted with the application form, if any, approved by the ACC.

- (a) **Site Plan.** A site plan showing the location of the Building(s) and all other structures and Improvements including fences and walls on the Lot, Lot drainage and all set backs, curb cuts, driveways, parking areas and other pertinent information relating to the Improvements.
- (b) **Building Plan.** A building plan which shall consist of preliminary or final blueprints, elevation drawings of the north, south east and west sides, and detailed specifications which shall indicate, by sample if required by the ACC, all exterior colors, materials and finishes, including roof, to be used.
- (c) **Landscape Plan.** A landscape plan for portions of the Lot to be landscaped which shall show the location, type and size of trees, plants, ground cover, shrubs, berming and mounding, grading, drainage, sprinkler system, fences, freestanding exterior lights, driveways, parking areas and walkways if required by the ACC.
- (d) **Evidence of Cost.** Such evidence of the cost of the Improvements as shall be satisfactory to the ACC to assure compliance with the requirements of Section 5.03 of this Master Declaration.

The ACC may, in its discretion, require the Owner to furnish additional specifications, drawings, material samples or such other information as the ACC, in its sole discretion reasonably exercised, shall deem necessary or convenient for the purpose of assisting the ACC in reviewing and processing the application.

SECTION 11.08. Decision. In reviewing the application and the materials submitted therewith and in reaching a decision thereon, ACC shall use its best efforts and judgment to assure that all Improvements shall produce and contribute to an orderly and aesthetically complementary design and appearance and be of the quality required to maintain the Subdivision as a quality residential development.

Unless extended by mutual consent of the Owner and the ACC, the ACC shall render its decision with respect to an application within thirty (30) days after the receipt of a properly submitted application. The decision of the ACC can be in the form of an approval, a conditional approval or denial. The decision of the ACC shall be in writing, signed by a member of the ACC, dated with a copy thereof mailed to the Owner at the address shown on the application.

A conditional approval shall set forth with particularity the conditions upon which the application is approved and the Owner shall be required to affix a copy of said conditions to the working drawings or blueprints which are to be kept on the job site during the entire course of the work to which said plans relate.

A denial of an application shall state with particularity the reasons for such denial. All denied applications shall be resubmitted prior to commencement of construction. In the event the ACC denies an application more than twice, the ACC shall be able to assess a review fee of \$100.00 for the additional time of processing each additional submittal.

SECTION 11.09. Inspection and Complaints. The ACC is empowered to inspect all work on any Lot at any time. Such inspection shall be for the purpose of determining whether the Owner is proceeding in accordance with the approved application or is deviating therefrom or is violating this Master Declaration or the ACC Standards or the approved plans and specifications.

The ACC is empowered to receive from other Owners ("Complainant") complaints in writing involving deviations from approved applications or violations of this Master Declaration or any applicable ACC Standards. In the event the ACC receives such a complaint from a Complainant, it shall first determine the validity of such complaint by inspection or otherwise.

Should the ACC determine that there has been a deviation or a violation, it shall promptly issue a notice in writing thereof to the Owner and to the Complainant, which notice shall specify the particulars of the deviation or violations and shall demand that the Owner conform to either or both of the following directives:

- (a) The Owner shall immediately cease the activity which constitutes a deviation or violation.
- (b) The Owner shall adhere to the corrective measures set forth in the written notice.

Should the ACC determine there has been no deviation or violations, it shall promptly issue a notice of such determination to the Owner and the Complainant.

SECTION 11.10. Hearing. An Owner submitting an application under Section 11.07, above, or served with a written notice of deviation or violation, or a Complainant shall have the right to request and be heard at a hearing held by the ACC for the purpose of presenting facts and information to the ACC. Such hearing must be requested by such party within ten (10) days from the date the written notice of the decision of the ACC is mailed to the Owner (an Complainant) as evidenced by the records of the ACC. The hearing shall be held within ten (10) days following receipt by the ACC of the request for a hearing, unless the ACC shall extend said period of time because of the unavailability of ACC members. A hearing may be continued by the ACC for the purpose of further investigation or to receive additional evidence. Upon completion of the hearing, the ACC shall issue a written opinion to the involved parties within ten (10) business days thereafter which opinion shall set forth the findings of the ACC with respect to the matters at issue and shall affirm, modify or rescind its previous decision as contained in the original written notice. If the ACC incurs any costs or expenses in connection with the investigation, processing or hearing on a matter involving a deviation or violation, including the costs of retaining a consultant(s) to advise the ACC and legal fees, such costs shall be paid by the Complainant unless the Owner is found to be in violation, in which event such Owner shall pay all such costs. The payment of such costs shall be enforceable as provided in Section 11.12, below.

SECTION 11.11. Appeal. Either an Owner or a Complainant shall have the right to appeal to the Board a decision of the ACC on an application with respect to the conditions imposed thereon or a denial thereof, or a decision of the ACC adverse to the Owner or the Complainant reached following a hearing held pursuant to Section 11.10, above, provided, however, that neither an Owner nor a Complainant shall be entitled to such an appeal with respect to deviations or violations unless said Owner or Complainant has participated in the ACC hearing.

A notice of appeal shall be in writing and shall be delivered by mail to the Secretary of the Board within (10) days from the date of the decision by the ACC. Said notice of appeal shall be dated and shall contain the name of the Owner and the Complainant, if any, and a copy of the written decision or determination of the ACC. The failure of an Owner or Complainant to appeal a decision of the ACC in the manner and within the time herein provided shall terminate all rights of said Owner or Complainant to appeal said decision and it shall be binding and enforceable.

The Board shall fix a date for the hearing of such an appeal which date shall be no later than ten (10) days from the date of receipt of a notice of appeal unless extended by the Board because of the unavailability of Board members. The Owner and Complainant, if any, shall be advised of the time and place of the hearing by a mailed written notice. Written notice of time and place for hearing shall also be served by mail upon each member of the ACC.

The Board may require the Owner or Complainant to provide additional information to facilitate the Board's decision and the failure of such party to comply promptly with such a request shall entitle the Board to deny the appeal, in which event the decision by the ACC shall be considered final and not subject to further appeal.

At the hearing, the Owner, Complainant, if any, and the ACC, together with their representative and other witnesses, shall present their position to the Board. The order of presentation and the evidence to be admitted shall be solely within the discretion of the Board provided, however, that the Owner, the Complainant, if any, and the ACC shall have the opportunity to question and cross-examine witnesses presented by the other. The Owner, the Complainant, if any, and the ACC will have the opportunity to present final argument consistent with rules adopted by the Board for such hearing process. Any party may be represented by an attorney at any hearing by the ACC or the Board.

Upon receiving all of the evidence, oral and documentary, and following the conclusion of the hearing, the Board shall retire to deliberate and shall reconvene at a time and place determined by the Board, at which time the Board shall cast its official ballot and the decision shall be duly recorded in the minutes of the meeting. The Owner, the Complainant, if any, and the ACC members shall be given written notice of the decision which shall be deemed given when deposited in the United States mail, postage prepaid and properly addressed.

If the Board incurs any costs or expenses in connection with the investigation, processing or hearing on an appeal, including the costs of retaining a consultant(s) to advise the Board and legal fees, such costs shall be paid by the party(s) filing the appeal unless the decision by the Board constitutes a substantial reversal of the decision of the ACC, in which event such costs shall be paid by the Association. If the party filing the appeal is obligated to pay such costs, payment of the same shall be enforceable as provided in Section 11.12, below.

A decision of the Board of an appeal shall be final and shall not be subject to reconsideration or further appeal.

SECTION 11.12. Enforcement. The ACC, upon approval by the Board, shall be authorized on behalf and in the name of the Association to commence such legal or equitable proceedings as are determined by it to be necessary or proper to correct or enjoin any activity or condition existing within the Subdivision, the continuation of which violates the provisions of this Master Declaration, the ACC Standards or the approved plans and specifications.

The authority of the ACC as herein provided, shall include the power to hire or retain the services of contractors and purchase materials necessary to remove, complete or correct any violation and to seek compensation and recovery of costs incurred as provided for herein. Further, the ACC shall have right to post or paint a stop work order or notification on the Improvements delineating the violation. The ACC shall have the right to act without notice to stop, halt, or remove a violation if within its sole discretion and judgement it is deemed necessary to act expeditiously to prevent further problems, costs, injury, or there appears to be a willful disregard of ACC Standards, or this Master Declaration. In such case, written notice shall still be given after the action taken, explaining both the action and violation.

The ACC shall not commence such legal or equitable proceedings until a written notice of the deviation or violation has been appropriately prepared and given to the Owner but thereafter the ACC shall have the sole discretion to commence such proceedings.

The authority of the ACC as herein provided shall also include the power to retain legal counsel and expert witnesses, pay filing fees, deposition costs, witness fees and all other ordinary and necessary expenses incurred in commencing and carrying out said legal or equitable proceedings, all of which costs shall be paid by the Association.

In the event the ACC and/or Association shall prevail in any such legal or equitable proceedings, all costs and expenses incurred in connection therewith including, but not limited to, attorney's fees shall be reimbursed to the Association by the Owner against whom said proceedings are filed and upon the failure of said Owner to reimburse the Association within five (5) days after written demand therefor is mailed to the Owner, the Association shall have the right to levy a Limited Assessment against the Owner and the Lot owned by the Owner which Assessment shall be equal to said costs and expenses incurred plus any additional costs and expenses incurred in levying the Assessment. Said Limited Assessment shall be due and payable at such time or in such installments as may be determined by the Board, in its sole discretion. The failure of the Owner to pay said assessments, or any installment thereof when due, shall be enforceable in the manner provided in Article IX, above.

SECTION 11.13. Additional Damages. In addition to the costs and expenses to be reimbursed by the Owner or the Complainant, all other costs, expenses and damages determined by the Board to be proximately caused by the deviation or violation or the costs and expenses incurred by the Association to correct the same shall be assessed as a Limited Assessment against the Owner and the Lot owned by said Owner, or the Complainant and the Lot owned by the Complainant, as the case may be, which Limited Assessment shall be due and payable at such time or in such installments as determined by the Board, in its sole discretion. The right of the Board to enforce said Limited Assessment shall be the same as provided in Article IX, above.

SECTION 11.14. Non-Exclusive Remedy. The right of the Association to levy a Limited Assessment as described in Section 11.12 and 11.13 above, shall not be deemed to be an exclusive remedy of the Association and it may, in its sole discretion, without waiver of any other legal or equitable remedy, pursue enforcement of the lien of said Limited Assessment(s), proceed to collect any amount due directly from the Owner and/or pursue any other remedies available at law or in equity.

SECTION 11.15. Private Rights. The Association shall not have the right to mediate or litigate private disputes between Owners where there is a legal or equitable remedy available to resolve said dispute unless the Board in its sole discretion determines the interests of the Association or a substantial number of the Owners would be benefited thereby.

ARTICLE XII

ANNEXATION

SECTION 12.01. Annexation. Additional property may be annexed to the Subdivision and brought within the provisions of this Master Declaration by the Grantor, at any time, without the approval of any Owner or the Association. To annex additional property to the Subdivision, the Grantor shall record an amendment to this Master Declaration which shall specify the annexation of the additional property to the Subdivision and which may supplement this Master Declaration with addition or different covenants and restrictions applicable to the annexed property, as the Grantor may deem appropriate, and may delete or modify as to such annexed property such covenants as are contained herein which the Grantor deems not appropriate for the annexed property. Upon such annexation, the Owners of the Lots within the annexed property shall become members of the Association with all rights, privileges and obligations as all other members. The amendment of this Master Declaration as authorized by this Section, to annex additional property to the Subdivision, shall be controlled by the provisions of this Section and shall be expressly excluded from the requirements of Section 14.02 of this Master Declaration.

SECTION 12.02. De-Annexation. The Grantor shall have the right to delete all or a portion of the Property from the coverage of this Master Declaration and the jurisdiction of the Association, so long as the Grantor is the Owner of all of the property to be de-annexed and, provided further, that an appropriate amendment to this Master Declaration is recorded in the office of the Canyon County Recorder.

ARTICLE XIII

PROTECTION OF MORTGAGEES

SECTION 13.01. Purpose. Notwithstanding any and all provisions of this Master Declaration to the contrary, to induce the Federal Home Loan Mortgage Corporation ("FHLMC"), the Government National Mortgage Association ("GNMA"), the Federal National Mortgage Association ("FNMA"), the Federal Housing Administration ("FHA") and the Veterans Administration ("VA") to participate in the financing of the purchase of Lots within the Subdivision, the provisions of this Article are added thereto. To the extent the following Sections of this Article conflict with any other provisions of this Master Declaration or the provisions of any Supplemental Declaration, this Article shall control.

SECTION 13.02. Restrictions on Amendments. No amendments of this Master Declaration shall operate to defeat or render invalid the rights of a Mortgagee or beneficiary under any first Mortgage or first Deed of Trust upon a Lot made in good faith and for value and recorded prior to the recordation of such amendment, provided that after foreclosure of any such Mortgage or Deed of Trust such Lot shall remain subject to this Master Declaration, as amended.

SECTION 13.03. Mortgagee Defined. For the purposes of this Article only, a "Mortgagee" shall refer only to FHLMC, GNMA, FNMA, FHA and VA, as described in Section 13.01, above.

SECTION 13.04. Right to Notice. Each Mortgagee, upon filing a written request for notification with the Board in accordance with Section 9.06, above, shall be given written notice by the Association of any default by the Owner of the Lot encumbered by the Mortgage held by said Mortgagee in the performance of such Owner's obligations under this Master Declaration and under any Supplemental Declaration applicable to the Lot, the Articles or the By-Laws of the Association (hereinafter collectively referred to as "Project Documents"), which default is not cured within thirty (30) days after the Association has notice of such default.

SECTION 13.05. Exemption from Prior Assessments. Each Mortgagee which comes into possession of a Lot by virtue of foreclosure or otherwise shall take title to such Lot free from any claims for unpaid Assessments and charges against the Lot which accrue prior to the time such Mortgagee comes into possession.

SECTION 13.06. Changes Requiring Unanimous Approval. Without the prior unanimous approval of all Mortgagees of Lots within the Subdivision, neither the Association nor the Owners shall:

- (a) By act or omissions seek to abandon, partition, subdivide, encumber, sell or transfer the Common Area which are owned, directly or indirectly, by the Association, provided, however, that the granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Areas by the Association shall not be deemed a transfer within the meaning of this Section.
- (b) Change the ratio of Assessments or method of determining the obligations, Assessments, dues or other charges which may be levied against any Owner or the method of allocating distributions of hazard insurance proceeds or condemnation awards.

SECTION 13.07. Restrictions or Other Changes. Without the prior written approval of at least seventy-five percent (75%) of the Mortgagees holding Mortgages on Lots within the Subdivision, neither the Association nor the Owners shall:

- (a) By act or omission change, waive, or abandon any scheme of regulations or enforcement thereof, pertaining to the architectural design of the exterior appearance of Improvements on Lots within the Subdivision, the exterior maintenance of said Improvements or the maintenance and upkeep of Landscaping within the Subdivision.
- (b) Fail to maintain fire and extended coverage insurance on insurable Improvements within the Common Areas on a current replacement cost basis in an amount not less than one hundred percent (100%) of the insurable value (based on current replacement cost).
- (c) Use hazard insurance proceeds for losses occurring within the Common Areas for any purpose other than the repair, replacement or reconstruction thereof.
- (d) Abandon or terminate the covenants, conditions, restrictions and easements of this Master Declaration or any Supplemental Declaration.
- (e) Make any material amendment to this Master Declaration or any Supplemental Declaration or to the Articles or By-Laws of the Association or any Sub-Association.

SECTION 13.08. Rights to Inspect Books, Etc. Mortgagees, upon written request, shall have the right to (i) examine the books and records of the Association during normal business hours; (ii) require from the Association the submission of audited annual financing reports and other financial data; (iii) receive written notice of all meetings of Owners; and (iv) designate in writing a representative to attend all such meetings.

SECTION 13.09. FNMA and GNMA Insurance Requirements. Notwithstanding any other provisions contained in this Master Declaration, the Association or a Sub-Association shall continuously maintain in effect such casualty, flood and liability insurance and a fidelity bond meeting the insurance and fidelity bond requirements for planned unit development projects established by FNMA and GNMA, so long as either is a Mortgagee or Owner of a Lot within the Subdivision, except to the extent such coverage is not available or has been waived in writing by FNMA or GNMA.

SECTION 13.10. Additional Contracts. In addition to the foregoing provisions of this Article, the Board may enter into such contracts and agreements on behalf of the Association as are required in order to satisfy the guidelines of FHLMC, FNMA, GNMA, FHA, VA or any similar entity, so as to allow for the purchase, guaranty or insurance, as the case may be, by such entity of mortgagees encumbering Lots within Improvements thereon. Each Owner hereby agrees that it will benefit the Association and each Owner, as a class of potential mortgage borrowers and potential sellers of this Lots if such agencies approve the Subdivision as a qualifying Subdivision under applicable policies, rules and regulations as adopted from time-to-time.

SECTION 13.11. Consent to Release of Information by Mortgagee. Mortgagees are hereby authorized to furnish information to the Board concerning the status of any Mortgage encumbering a Lot and each Owner of a Lot encumbered by such a Mortgage hereby consent thereto.

SECTION 13.12. Restricted Application. It is expressly provided that the terms, conditions and provisions of this Article shall not be operative or in force and effect unless and until FHLMC, FNMA, GNMA, FHA or VA purchases, grants or insures a Mortgage on a Lot within the Subdivision and then only to the extent the same are required by said purchaser, guarantor or insurer. In the event the standards and guidelines of FHLMC, FNMA, GNMA, FHA or VA do not require, as a condition of approval of the Subdivision as a qualifying Subdivision, the inclusion of one or more of the provisions of this Article, said non-required provisions shall be of no further force or effect.

SECTION 13.13. Annexations, Mergers, Ingress, Etc. Annexation of additional properties, mergers and consolidations, mortgaging or dedication of Common Area, dissolution and amendment of the Master Declaration, requires prior approval of HUD/VA as long as there is a Class B Membership. If any ingress or egress to any residence is through the Common Area, any conveyance or encumbrance of such area is subject to Lot Owner's easement.

SECTION 13.14. Relationship with HUD Requirements. None of the provisions of this Master Declaration shall be construed to conflict with the HUD requirements that the Common Area be conveyed to the Association free and clear of all encumbrances.

ARTICLE XIV

MISCELLANEOUS

SECTION 14.01. Term. This Master Declaration and all covenants, conditions, restrictions and easements contained herein shall run until December 31, 2030, unless amended as hereafter provided. After December 31, 2030, said covenants, conditions, restrictions and easements shall be automatically extended for successive period of ten (10) years each, unless extinguished by a written instrument executed by the Owners of at least three-fourth (3/4) of the Lots covered by this Master Declaration and such written instrument is recorded with the Canyon County Recorder.

SECTION 14.02. Amendments. This Master Declaration may be amended as follows:

(a) **By Grantor.** Until title to a Lot within the Subdivision is conveyed by the Grantor to an Owner, this Master Declaration may be amended or terminated by the Grantor by recordation of a written instrument signed by the Grantor and acknowledged setting forth such amendment or termination.

(b) **By Owner.** Except where a greater percentage is required by express provision in this Master Declaration, the provisions of this Master Declaration, other than this Section, may be amended by an instrument in writing, signed and acknowledged by the President and Secretary of the Association, certifying that such amendment has been approved by a vote or written consent of Owners, excluding the Grantor, owing at least two-thirds (2/3) of the Lots covered by this Master Declaration and the Grantor so long as the Grantor owns a Lot within the Subdivision, and such amendment shall be effective upon its recordation with the Canyon County Recorder. Any amendment to this Section 14.02 shall require the vote or written consent of the Owners, including the Grantor, of two-thirds (2/3) of the Lots covered by this Master Declaration.

SECTION 14.03. Books and Records. All books, records and minutes of the Board and all other books and records maintained by the Association shall be made available for inspection and copying by any Owner or by his duly authorized representative, at any reasonable time and for a purpose reasonably related to his interest as a member in the Association, or at such other place and time as the Board shall prescribe.

SECTION 14.04. Non-Waiver. The failure of the Grantor, the Board or any Owner in any one or more instances to insist upon the strict performance of any of the covenants, conditions, restrictions, easements or other provisions of this Master Declaration or to exercise any right or option contained herein, or to serve any notice or to institute any action, shall not be construed as waiver or relinquishment for the future of such covenant, condition, restrictions, easement or other provisions, but the same shall remain in full force and effect.

SECTION 14.05. Acceptance. Each Owner of a Lot; each purchaser of a Lot under a contract or agreement of sale and each holder of an option to purchase a Lot, by accepting a deed, contract of sale or agreement or option, accepts the same subject to all of the covenants, conditions, restrictions, easements and other provisions set forth in this Master Declaration and agrees to be bound by the same.

SECTION 14.06. Indemnification of Board Members. Each member of the Board and each member of the ACC shall be indemnified by the Owners against all expenses and liabilities, including attorney's fees, reasonably incurred by or imposed in connection with any proceeding to which said member may be a party or in which said member may become involved, by reason of being or having been a member of the Board or the ACC, or any settlement thereof, whether or not said person is a member of the Board or ACC at the time such expenses or liabilities are incurred, except in such cases wherein said person is adjudged guilty of willful misfeasance or malfeasance in the performance of his or her duties; provided that in the event of a settlement, the indemnification shall apply only when the Board or the ACC approve such settlement or reimbursement as being in the best interest of the Association or Owners. This Section shall extend to and apply also for the indemnification of the Grantor during the initial period of operation of the Association or prior thereto during the period the Grantor is exercising the powers of the Association.

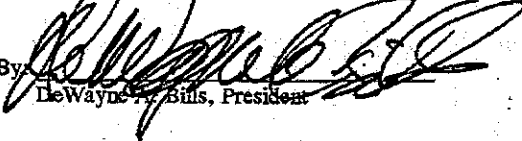
SECTION 14.07. Notices. Any notice permitted or required to be delivered as provided in this Master Declaration shall be in writing and shall be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered seventy-two (72) hours after the same has been deposited in the United States mail, postage prepaid, properly addressed.

SECTION 14.08. Interpretation. The provisions of this Master Declaration and any Supplemental Declaration shall be liberally construed to effectuate the Project Objectives set forth in Article IV, above, and shall be construed and governed by the laws of the State of Idaho. Unless the context requires a contrary construction, the singular shall include the plural and the plural the singular, and the masculine, feminine or neuter shall include the masculine, feminine or neuter. All captions and titles used in this Declaration are intended solely for convenience of reference and shall not affect that which is set forth in any of the provisions hereof. Any typographical error shall not be used to construe a different interpretation from the context thereof.

SECTION 14.09. Severability. Notwithstanding the provisions of the proceeding Section, each of the provisions hereof shall be deemed independent and severable and the invalidity or unenforceability of any provision or portion thereof shall not affect the validity or enforceability of any other provision.

IN WITNESS WHEREOF, the Grantor has executed this Master Declaration as of this 12th day of May, 1999.

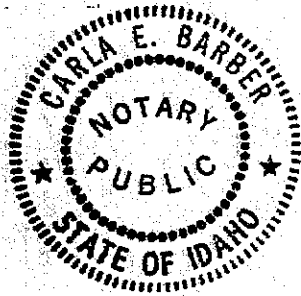
CUATRO DEVELOPMENT CORPORATION

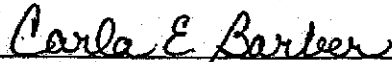
By: 
DeWayne A. Bills, President

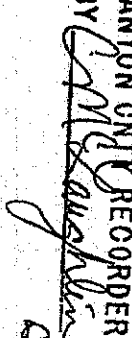
STATE OF IDAHO)
) ss.
County of Canyon)

On this 12th day of May, 1999, before me, a Notary Public in and for said State, personally appeared DeWayne A. Bills, known to me to be the President of Cuatro Development Corporation and that he executed the within instrument on behalf of said corporation and acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.




Notary Public for State of Idaho
Residing at Boise, Idaho
Commission Expires: 2-16-2000

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