

Instrument # 197566

BEAR LAKE COUNTY

2007-03-08

05:01:28 No. of Pages: 48

Recorded for : BEAR LAKE GROUP, LLC

KERRY HADDOCK

Fee: 144.00

Ex-Officio Recorder Deputy

Index to: MISCELLANEOUS

WHEN RECORDED
RETURN TO:

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THE RESERVE
AT BEAR LAKE

DECLARATION
OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
THE RESERVE AT BEAR LAKE

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1. DECLARATION - PURPOSES

1.1 Declaration. This instrument (the "Declaration") amends, replaces and supersedes the declaration recorded on August 10th, 2005 as instrument #192103 at Bear Lake County, Idaho; and is made as of the 6th day of March, 2007 by Bear Lake Group, LLC, the Declarant. The Declarant exercises its' right to amend this declaration pursuant to section 10.2 of this Declaration. This instrument is a declaration of covenants, conditions and restrictions for The Reserve at Bear Lake. The Reserve is a residential subdivision with recreational amenities being developed in more than one phase. This Declaration shall be binding and effective as to all phases of The Reserve. All future final subdivision plats for the additional phases of The Reserve will be recorded concurrently with this Declaration. As the Final Subdivision plat for each subsequent phase is recorded or as such other times as permitted by this Declaration and/or as the Declarant may deem appropriate, this Declaration shall be amended to make necessary and desired changes and to add all the property located within each new phase to the property covered by this Declaration.

1.2 General Purposes. Bear Lake Group, L.L.C., an Idaho limited liability company, is the owner of a residential community being developed as The Reserve at Bear Lake, located in Bear Lake County, Idaho. This residential community was formerly known as "Bear Lake Haven" and was approved for a total of 567 units (units to include homesteads, lots and town homes). Any reference to percentage of units in this document means a percentage of these 567 units. It is further understood that it is anticipated that additional property and "units" will be annexed to "The Reserve" and share in the ownership of the Common areas. Any real property may be annexed to the Project in the discretion of the Declarant. Such real property shall be made subject to this Declaration at the time that it is annexed. When additional real property and "units" are annexed it is understood that the total units in The Reserve will increase, thereby affecting percentages referred to in this document. Each owner of any lot, by acceptance of a deed or conveyance thereof, whether or not it shall be so expressed in any such deed or instrument of conveyance, is deemed to Covenant to accept any and all annexations such as Declarant may make.

Declarant intends that all owners, trust deed beneficiaries, mortgagees and any other persons or entities now or hereafter acquiring any interest in The Reserve shall hold such interest subject to all the rights, privileges, obligations and restrictions set forth in this instrument. In addition, Declarant shall create a homeowners association as an Idaho non-profit corporation to be called Master Resort Association of The Reserve at Bear Lake (the "Association") that shall establish rules and govern the operation of The Reserve, shall perform certain tasks and fulfill certain obligations described herein and shall hold, operate and manage the property of the Association for the common benefit of all owners of The Reserve consistent with and under the authority of this Declaration.

1.3 Continuing Effect of this Declaration. To further the purposes herein expressed, the Declarant, for itself, its successors and assigns, with respect to all of the property to be included in The Reserve, including but not limited to all Common Areas and proposed or designated open space, hereby declares that all said property shall at all times be owned, held, used and conveyed subject to the terms, provisions, conditions and

restrictions contained in this instrument, which terms, provisions, conditions and restrictions shall constitute covenants running with the land and shall be binding upon and inure the benefit of the Declarant, the Association and all owners of residential lots and/or other property interests, trust deed beneficiaries and mortgagees with property interests in The Reserve as to their respective interests and to any person or legal entity acquiring any interest in or to any of said property.

2. DEFINITIONS AND AREA DESIGNATIONS

2.1 Annual Assessments shall mean the regular assessments of the Association which are comprised of the Common Expenses consisting of charges levied and assessed by the Association each year against a Homestead pursuant to Section 5.2 of this Declaration for the purpose of funding the required maintenance, operational and administrative costs and/or other purposes provided for in this Declaration.

2.2 Articles shall mean Articles of Incorporation of the Association and any amendments thereto.

2.3 Assessment means any Annual Assessments, Special Assessments, Compliance Assessments, and/or such other assessments and/or charges as the same are or may be established and collected by the Association in accordance with the provisions of the Declaration.

2.4 Assessment Lien means a lien filed by the Association on a Homestead which relates to any unpaid or uncollected Assessment, including penalties.

2.5 Association means the Master Resort Association of The Reserve at Bear Lake, an Idaho nonprofit corporation, which shall be formed and incorporated and which shall constitute the Association to which reference is made in this instrument, the purpose of which is to maintain the Association Property and to further, by regulations and restrictions consistent with this Declaration, the common interests of Owners of all Homesteads within The Reserve, including enforcing certain standards and levels of maintenance for all amenities, buildings, roads, forests, and landscaping within all areas of the Reserve.

2.6 Association Property means any property granted to the Association that may consist of Common Areas, Property Conveyed by Declarant, and certain Easements (excluding specifically those easements herein reserved to and owned by the Declarant) designated on the Final Subdivision Plats and all improvements thereon and any other property that is transferred or granted to the Association, including but not limited to associated embankment slopes, storm drains, utilities and the like, as well as any private trails created and maintained by the Association, but not including private trails created or maintained by individual Owners. Association Property shall not include any Perpetual Open Space unless specifically transferred or granted to the Association by the

Declarant, which property is reserved and owned by the Declarant as provided in Section 8.12 below.

2.7 Board or Board of Trustees means the governing board of the Association.

2.8 Common Area(s) means all property designated on the Final Subdivision Plat as Common Area which are created by the Declarant or by the Association for the common benefit of all Owners within The Reserve.

2.9 Common Expenses means estimated and actual expenditures made or to be made by or on behalf of the Association, including, but not limited to, expenditures for the maintenance of the Association Property, together with any allocations to reserve or capital funds, which Common Expenses are to be funded from the proceeds of Assessments.

2.10 Compliance Assessment means an Assessment made by the SARC and/or the Board for all costs and expenses, including reasonable attorneys' fees and costs, incurred by the SARC and/or the Board to cause non-complying improvements to be removed or a noncompliance to be cured, as provided in Section 4.11 below.

2.11 Conservation Easement means easements granted to an eligible agency under applicable federal and/or state laws for the preservation and protection of open space and the use and maintenance of open space in accordance with the standards of said laws and with the policies and standards of agencies which are eligible and qualified to receive the conservation easements.

2.12 County shall mean Bear Lake County, Idaho.

2.13 Declarant means Bear Lake Group, L.L.C., an Idaho limited liability company and any party designated as a successor or assign of the Declarant by a written instrument duly recorded in the real estate records of Bear Lake County, Idaho, which instrument, to be effective, need only be signed by Declarant. Such instrument may specify the extent and portion of the rights or interests being assigned by Declarant, in which case Declarant shall retain all other rights of Declarant not so assigned.

2.14 Declaration means this Declaration of Covenants, Conditions and Restrictions for The Reserve at Bear Lake as recorded in the real estate records of Bear Lake County, Idaho, and as amended from time to time. This Declaration shall at all times and for all purposes be relied upon by Declarant, the Association, any Owners of a Homestead or other property interest, Members, Mortgagees, or any prospective purchaser of a Homestead or other property interest in The Reserve and any title company insuring any owner, mortgage or any other property interest in The Reserve.

2.15 Development Envelope means one or more areas referred to in the Design and Development Guidelines within which principal development activity may occur. Procedures are set forth in Sections 7.3 and 7.4 below whereby the Owner of a

Homestead shall select and/or modify a particular Development Envelope.

2.16 Design and Development Guidelines means the development criteria adopted and, from time to time, amended by the Declarant or the Board of Trustees and implemented by the Site and Architectural Review Committee to provide design and development guidelines for the construction homes and other improvements, and/or carry on any other development activity in The Reserve.

2.17 Easements means those areas designated on the Final Subdivision Plat(s) as Road Easement, Driveway Easement, Public Road Easement, Utility Easement, Private Trail Easement, Open Space Easement and any other easement granted or received by the Declarant or by the Association for the common benefit of all Owners within The Reserve.

2.18 Eligible Mortgage Holder shall mean the holder of any Mortgage or Deed of Trust encumbering a Homestead that has (1) given written notice to the Association of said Mortgage, which notice shall include the name, mailing address, phone number, and contact person of such Mortgage or Deed of Trust holder, and shall be accompanied by a true copy of the Mortgage or Deed of Trust bearing the recording information; and (2) provides proof of the existence of an impound or escrow account for the payment of any Assessment with respect to the subject Homestead ensuring that such Assessments are paid in a timely manner.

2.19 Final Subdivision Plat(s) means the subdivision plat map for Phase 1 of The Reserve which has been approved by Bear Lake County Planning and Zoning Commission and the Bear Lake County Board of County Commissioners and recorded in the Office of the Bear Lake County Recorder, and, as each additional phase of The Reserve is developed, the recorded subdivision plat map for each such phase.

2.20 Homestead or Homesteads means any subdivided parcel or parcels of land designated and approved for residential development, owned in fee and designated by a number and an address on the Final Subdivision Plat(s) recorded for each of the phases of The Reserve, excluding any parcel owned in fee and designated on a Final Subdivision Plat as Common Areas or Perpetual Open Space.

2.21 Member or Members means either (a) the Owner(s) of a Homestead(s) in The Reserve who, by virtue of such ownership, is/are a Member(s) of the Association and who are entitled to a membership(s) in the Association, or (b) the holder of a membership in the Association, all as provided in Section 3.5 below.

2.22 Mortgage means any mortgage, deed of trust or other security instrument creating a real property security interest in any Homestead, excluding any statutory, tax or judicial liens.

2.23 Mortgagee means any grantee or beneficiary of a Mortgage or Deed of Trust.

2.24 Mortgagor means any grantor or trustor of a Mortgage or Deed of Trust.

2.25 Owner means the person or persons or legal entity holding record fee simple title to a Homestead. Declarant and the Association shall be entitled to treat the record title holder of a Homestead as the Owner thereof for all purposes.

2.26 Primary Access means access to The Reserve that has been agreed upon by Bear Lake County to be a primary access.

2.27 Property Conveyed by Declarant means any real or personal property which Declarant sells, grants, assigns or conveys to the Association including, but not limited to, Common Areas, Easements, storm drains, roads, trails, utilities, water rights, buildings, signage, security gates, equipment, inventory, furniture, fixtures, fences, lighting, trucks or other vehicles, and any other improvements. The Association shall be obligated to and shall accept title to or interests in any property which may be sold, assigned, granted or conveyed by Declarant to the Association by Declarant. All property to be sold, assigned, granted or conveyed by Declarant to the Association will be an outright conveyance, sale, assignment, grant or conveyance of all the interest of Declarant therein, subject only to such reservations, restrictions and conditions as Declarant may reasonably provide. None of such property, to the extent owned by Declarant, will be leased to the Association.

2.28 Property Manager means a person or other entity who may or may not be an employee of the Association who shall be primarily responsible for the operation of The Reserve, which operation may include, but not be limited to, stewardship of open space and Common Areas, maintenance and repair of roads, bridges and buildings and who may provide other services which the Association may, from time to time, desire.

2.29 Roads means the roadways and associated improvements within those areas designated on the Final Subdivision Plat(s) as Road Easements and Driveway Easements which are intended to serve more than one (1) Homestead, and the embankment slopes (whether inside or outside the Road or Drive Easements) which were created by the construction of said roadways.

2.30 Restricted Access Easement means the reciprocal access for emergency and maintenance purposes only within The Reserve as required and approved by Bear Lake County and shown on the Final Subdivision Plat(s). Use of a Restricted Access Easement is limited in accordance with the terms and conditions of any deed, grant or other agreements creating such access, matters of record, applicable land use approvals or other restrictions as set forth in this Declaration or as posted from time to time on said Restricted Access Easements. Certain Restricted Access Easements are subject to Easement agreements with Canyon Estates and are further referenced in Section 7.25 of this Declaration.

2.31 Site and Architectural Review Committee, also referred to as the SARC,

shall mean either the Board of Trustees or a committee appointed by the Board of Trustees of the Association as hereafter provided for the purpose of reviewing and approving any improvements on or changes to lands within the Reserve.

2.32 Special Assessments means any special or extra-ordinary assessment levied and assessed pursuant to Section 5.3 below.

2.33 Subsidiary shall mean a non-profit corporation or other entity that is a subsidiary of the Association to which Association Property and/or other rights, property interests or appurtenances in The Reserve owned by the Association may be leased or transferred and thereafter held, owned, operated, leased, managed or otherwise dealt with by such subsidiary in furtherance of the interests of The Reserve.

2.34 The Reserve means the residential community that was formerly known as "Bear Lake Haven" and was approved for a total of 567 units (units to include homesteads, lots and town homes). Any reference to percentage of units in this document means a percentage of these 567 units. It is further understood that it is anticipated that additional property and "units" will be annexed to "The Reserve" and share in the ownership of the Common areas. Any real property may be annexed to the Project in the discretion of the Declarant. Such real property shall be made subject to this Declaration at the time that it is annexed. When additional real property and "units" are annexed it is understood that the total units in The Reserve will increase, thereby affecting percentages referred to in this document. Each owner of any lot, by acceptance of a deed or conveyance thereof, whether or not it shall be so expressed in any such deed or instrument of conveyance, is deemed to Covenant to accept any and all annexations such as Declarant may make. All the property shown on the recorded Final Subdivision Plat for Phase 1, and, by amendment, shall also include all property shown on the recorded Final Subdivision Plat for each of the subsequent phases. It shall also include any Association Property, Conservation Easements and/or other open space areas granted to the Association by the Declarant whether or not included within the boundary of any Final Subdivision Plat.

2.35 Units mean any homesteads, lots or townhomes. Where unit is referenced in this document, by the Declarant, it means any homestead, lot or town home that has been approved in the Bear Lake Haven special use permit (master plan).

3. ASSOCIATION MEMBERSHIP

3.1 Formation of Association. The Association shall be a nonprofit Idaho corporation charged with the duties and invested with the powers prescribed by law and as set forth in its Articles, Bylaws and this Declaration. Neither the Articles nor Bylaws of the Association shall, for any reason, be amended or otherwise changed or interpreted so as to be inconsistent with this Declaration.

3.2 Board of Trustees and Officers. The affairs of the Association shall be conducted by the Board and such officers as the Board may elect or appoint in accordance with its Articles and Bylaws as the same may be amended from time to time. The Association by and through the Board shall (a) govern and manage all Property Conveyed by the Declarant and any other Association Property and (b) enforce the provisions of this Declaration. The initial Board shall be composed of five (5) members. The Board also may appoint various committees. The Board will employ or otherwise contract with the Property Manager who shall, subject to the direction of the Board or the terms of the Property Manager's contract, be responsible for the operation of The Reserve. The Board shall determine the compensation to be paid to the Property Manager or any employee of the Association. The Declarant shall have the right to appoint and remove members of the Board until the sale of seventy five percent (75 %) of the units, which includes, homesteads, lots or townhomes, as referenced in section 1.2 General Purposes of this document. Sale of a unit shall mean "the close of escrow" of a unit in The Reserve by Declarant. Sale shall mean instrument signed by Declarant and duly recorded in the real estate records of Bear Lake County, Idaho, Declarant may elect to relinquish this right to appoint and remove members of the Board sooner than provided above.

3.3 Association Rules. The Association may from time to time adopt amend and repeal rules and regulations to be known as the "Homeowners Association Rules by a majority vote of the Board. The purpose of the Association Rules shall be to implement, supplement or otherwise carry out the purposes and intentions of this Declaration. The Homeowners Association Rules shall not be inconsistent with this Declaration.

3.4 Limited Liability. Neither the Association, nor any Subsidiary, nor any of their past, present or future, officers or directors, employees, agents or committee members, nor the Property Manager (but only in the case the Property Manager shall be an employee of the Association) shall be liable to any Owner or to any other person for any damage, act, omission to act, simple negligence or other matter of any kind or nature, except for gross negligence. As to employees of the Association, including the Property Manager (but only in the case the Property Manager shall be an employee of the Association) or employees of any Subsidiary, the limits of liability set forth in the sentence immediately preceding shall only apply where: (i) such persons were employees, of the Association or Subsidiary (as opposed to independent contractors) at the time of alleged damage, act, omission to act, simple negligence or other matter of any kind or nature, except gross negligence and, (ii) said employee was acting within the scope of his or her job or responsibility. Without limit to the foregoing, neither the Association, the Board, any Subsidiary, nor any Board of a Subsidiary shall be liable to any party for any action or for any failure to act with respect to any matter if the action taken or failure to act was in good faith and without malice. Acts taken upon the advice of legal counsel, certified public accountants, registered or licensed engineers, architects or surveyors shall conclusively be deemed to be in good faith and without malice.

3.5 Membership. This Association shall be a membership association without certificates or shares of stock. The Members of the Association shall be (i) those persons or entities, including Declarant, who are the Owners, from time to time, of Homesteads in The Reserve as shown on the Final Subdivision Plate(s), and (ii) Declarant, whose membership is based on the total number of units referenced above in section 1.2 General Purposes, of any units approved in any Special Use Permit (master plan) in The Reserve, or any units and real property annexed thereto. Other than Declarant, membership in the Association shall automatically terminate when an Owner of one of the Homesteads or any adjacent property ceases to be an owner of such Homestead or adjacent property.

3.6 Voting. Except as otherwise provided in this Declaration, a Member shall have one (1) vote for each Homestead owned. The affirmative vote of a majority of the Members entitled to vote on any matter present in person or by written proxy when a quorum has been established at any meeting of the Members for purposes of such vote shall constitute approval of such matter, except for matters which specifically require some other vote or level of approval under the terms of this Declaration or under the Bylaws of the Association or otherwise by law, in which case the specifically identified voting requirements shall apply. Where there is more than one record Owner of a Homestead, the several record Owners of such Homestead collectively shall have only one vote, and shall be required to designate, by prior written notice to the Association, the particular Owner who shall cast the one vote appurtenant to that Homestead. If the several Owners of any Homestead are unable or unwilling to designate a particular Owner to vote, then the membership appurtenant to that Homestead shall not be entitled to vote on any Association affairs until such designation is made. Subject to the right of Declarant to appoint and remove members of the Board, as set forth in Section 3.2 above, in any election of the Board, every Owner entitled to vote (multiple Owners of one Homestead being entitled collectively to one vote) shall have a number of votes for each Homestead owned times the number of Board members to be elected. The candidates receiving the highest number of votes, up to the number of Board members to be elected, shall be deemed elected. At any regular or special meeting of the Members of the Association, a quorum shall be present for voting purposes when Owners entitled to vote are present in person or by written proxy representing at least a majority of the total Homesteads. If no quorum is present, meetings may be postponed and rescheduled for future time(s) when a quorum is present.

3.7 Binding Effect. Each Owner, his lessees their families and guests, the heirs, successors or assigns of an Owner, or any Mortgagee, and any other persons using or occupying a Homestead, shall be bound by and shall strictly comply with the provisions of this Declaration, the By-Laws, the Articles any deed restrictions and covenants and an rules, regulations and agreements lawfully made by the Association.

3.8 Enforcement. The Association and Declarant shall each have the right

and power to bring suit in their respective names for legal or equitable relief for any lack of compliance with any provisions of this Declaration or rules promulgated by the Board or SARC. In addition, the Board shall have the right to adopt from time to time penalties and/or a schedule of monetary fines relative to violations or any lack of compliance with provisions of this Declaration or rules or regulations promulgated by the Board or SARC, impose such penalties and/or monetary fines on any Owner, and obtain all appropriate legal and/or equitable relief with respect thereto; such fines may be collected as an Assessment Lien as more fully described in Section 5.1 below. The failure of the Association or Declarant to insist upon the strict performance of any such provisions or to exercise any right or option available to it, or to serve any notice or to institute any action, shall not be a waiver or a relinquishment for the future of any such provision or the enforcement thereof. Any Owner aggrieved by a lack of compliance by another Owner may also bring suit for legal and equitable remedies against the non-complying Owner. In no event shall any Owner be permitted to bring suit for legal or equitable remedies directly against the Association, the Board, the SARC, or any member or agent thereof, for lack of enforcement, but rather such legal action by an aggrieved Owner is strictly limited to legal action against the non-complying Owner. If any court proceedings are instituted in connection with the rights of enforcement and remedies provided in this Declaration, the prevailing party shall be entitled to reimbursement of its costs and expenses, including reasonable attorneys' fees, in connection therewith.

3.9 Power of the Association. The Association has all the powers granted to it by this Declaration. Such powers shall include, without limitation, and of the following:

- (a) Levying Assessments against Owners;
 - (b) imposing a lien on Homesteads for any unpaid or uncollected Assessments or penalties, and foreclosing any such liens;
 - (c) enforcing any deed restrictions and covenants, including any easements or easement restrictions, restrictions to public or private trails, common areas, etc.;
 - (d) acquiring, holding, owning, leasing, mortgaging and disposing of property (except as such disposing of property may be limited in accordance with Paragraph 3.13 below);
 - (e) adopting rules and regulations and enforcing the same;
 - (f) defending, prosecuting or intervening in litigation on behalf of all Members;
 - (g) borrowing money for Association purposes and the right to pledge future income in order to secure such borrowings. The right to "pledge future income" shall include the right to impose a Special Assessment for repayment of such borrowings and to assign such Special Assessment (and all lien and collection rights appurtenant thereto) to the lender as security for repayment thereof, provided, however, the right to impose a Special Assessment hereunder shall at all times be subject to the limitations of Section 5.3 of this Declaration.
 - (h) exercising any other right, power or privilege given to it expressly by this Declaration, the Articles and By-laws, or by law or by the operative documents of and rules and regulations adopted by the Master Resort Association, and every other right, power or privilege reasonably to be implied from the existence of any right, power or privilege given to it herein or reasonably necessary to effectuate any such right, power or privilege.
- Association functions and assets may be held, owned, operated, performed, or carried out

by one or more Subsidiaries; provided, however, any acts, operations or activities of any Subsidiary shall at all times be in compliance with this Declaration.

(i) promulgating reasonable rules and regulations regarding guests which balance the rights of Owners to the full use and benefit of their property against the objective of preserving The Reserve as an exclusive private community with reasonably restricted access. To this end, the Association may, when necessary to prevent interference with other Owners use and enjoyment of their property, adopt reasonable rules and regulations.

3.10 Other Association Functions. The Association may undertake, to the extent the Board in its sole discretion so elects, to provide functions or services for the benefit of all, or some, Members on such basis as the Board may reasonably determine. Such functions may be provided by the Association's employees or an independent contractor retained by the Association. With respect to any functions or services, the Board may establish "cost centers" for the operation thereof. A "cost center" shall mean the identification and aggregation of all costs reasonably estimated by the Board to be attributable to a particular function or service. Where cost centers are established, the Board shall have the discretion, based on benefits received, to determine which Members shall be charged for such benefits and what amounts shall be paid by each such Member. No Owner shall without the consent of such Owner having been first obtained, be charged a disproportionate or unequal share for any cost center functions or services greater than what such share would have been if the cost center function was charged equally to all Owners.

3.11 Notice to Maintain. An Owner shall immediately report to the Association, in writing, the need for any maintenance, repair or replacement of any improvement within The Reserve which is the responsibility of the Association to provide. In the event of any disagreement as to the need for, or the responsibility of, the Association to provide the said maintenance, repair or replacement, the good faith decision of the Board shall be final.

3.12 Mechanics' Liens. Declarant shall be responsible for the release of all mechanics' liens filed with respect to the Association Property, or any part thereof, if any such liens arise or are alleged to arise from labor performed or materials furnished at the direction of Declarant, its agents, contractors or subcontractors. Except as the result of labor performed or materials furnished at the direction of the Board, no labor performed or materials furnished with respect to Association Property or any Homestead shall be the basis for filing a lien against any Association Property. No labor performed or materials furnished at the direction of the Board shall be the basis for filing a lien against any Homestead.

3.13 Ownership Operation, and Maintenance of Association Property. The Association Property, shall, at all times, be owned, operated, and maintained by the Association or a Subsidiary consistent with the provisions of this Declaration and the Development Agreement in trust for the use, benefit and enjoyment of the Owners of all Homesteads in The Reserve and their family members, guests and invitees.

3.14 Special Provisions Regarding Association Property. To the fullest extent permitted by law, the holder of any lien, mechanics lien, judgment or any other creditor of the Association or any Subsidiary, in the event such creditor becomes the owner of any Association Property or the property of any Subsidiary, shall have no right to cause such property to be utilized, appropriated, consumed or otherwise used, except to the benefit of The Reserve and in accordance with this Declaration. There shall be no sales, leases or other dispositions of Association Property, and no amendment to this Declaration may repeal or change this requirement, except upon the written consent of all Members and all Eligible Mortgage Holders. However, notwithstanding this provision, dispositions by the Association of worn, obsolete or damaged property, dispositions pursuant to a threat of condemnation (as provided in Section 11.1 below), transfers or leases to, from or among Subsidiaries, or any other sale or leases performed in the ordinary course of operations at The Reserve are permitted.

4. ARCHITECTURAL CONTROLS

4.1 Site and Architectural Review Committee. The SARC shall be composed of at least three (3), but no more than five (5), natural persons appointed by the Board. Persons serving on the SARC shall serve at the pleasure of the Board. The Board may remove a member of the SARC and appoint a new member at any time, provided that at all times there shall be at least three (3) persons serving. Members of the SARC may or *may* not be Board members or Members of the Association and may include one or more paid professionals, such as an architect, to perform such services. The SARC shall have and shall exercise all the powers, duties and responsibilities set out in this Declaration. The SARC may hire a secretary or other personnel to perform administrative, clerical and other functions. The operating costs of SARC, including the services of its planning consultants, professionals and other staff, shall be covered through a fee paid to SARC by Owners applying for plan review and approval. SARC shall make available to all Owners a current fee schedule. The Design and Development Guidelines shall also set forth the fee schedule, and the fee schedule may be modified from time to time in accordance with the provisions herein for the amendment and updating of the Design and Development Guidelines. Fees must be paid in full before any review by SARC commences and the unused portion of any fee is refundable.

4.2 Authority. Except as otherwise provided in this Declaration, no improvements of any kind or changes in the natural condition of any property shall be erected, altered or permitted to remain on any Homesteads or elsewhere in The Reserve unless complete architectural plans, specifications and site plans showing the location and orientation for such construction, alteration or landscaping are approved by the SARC prior to the commencement of the work. Work subject to SARC approval may include, but is not limited to, the construction of dwellings or other structures (including but not limited to), outbuildings, well enclosures and pipelines, fences, grading, planting, ponds, parking areas, walls, garages, roads, driveways, antennae, satellite dishes, flag poles or

the like, any renovation, expansion or refinishing of the exterior of an existing structure, and any excavating, clearing, landscaping or other site alterations. Any work performed by or on behalf of Declarant to any of the property within The Reserve including, but not limited to, the construction of amenities, subdivision infrastructure and the like, shall not require approval of the SARC.

4.3 The SARC Review Process. The process for reviewing development applications will be defined by the rules adopted by the Association and the SARC. Development applications for individual homesteads submitted by Owners shall be in substantial conformance with the provisions of Sections 4.3.1, 4.3.2 and 4.3.3 below.

4.3.1 The Pre-Planning Meeting. The SARC review process shall commence with an informal work session with the SARC board, SARC's designated planning consultants, the Owner and the Owner's architect or design professional. The purpose of this meeting is to agree on basic parameters for development of the Homestead that fully respond to the desires of the Owner and the land use philosophy and operating policies of The Reserve Homeowners Association. The primary focus of the work session will be an in-depth analysis of the Owner's site, its physical constraints, and the particular visual and environmental sensitivities that must guide its development. SARC will review the Design and Development Guidelines with participants, discuss how they apply to the project at hand, and explain the reasoning that determined the Development Envelope on the Owner's Homestead. It is very important that this meeting be scheduled after the Owner has selected a design team so that all of those who will be involved in the planning of the site may attend. Also, it is important that the meeting take place before any conceptual plans are drawn for the Owner. However, it is recommended that the Owner prepare for the meeting by completing a certified site survey, by gathering images that illustrate the style of building contemplated and by making a preliminary list of the facilities and building elements to be constructed on the site. The outcome of the work session will be a mutual understanding of the site constraints, the design opportunities unique to the site, the potential visual impacts on neighboring homesteads, the possibility of environmental impacts that may require mitigation, and any other site-specific concerns that the SARC may have. It is expected that this early dialogue will give the Owner constructive input when he is most able to use it and, in this way, will avoid the adversarial and potentially expensive effort that often attends conventional design and review procedures. At the discretion of SARC, the requirement for this meeting may be waived for applications that concern minor changes to existing structures or landscape.

4.3.2. Conceptual Design Review. Formal SARC review begins with the Owner's submittal of conceptual site and building plans. Conceptual review is intended to provide more detailed direction and guidance to the Owner and the Owner's design team by the specific identification of any site or development issues and concerns that, in the opinion of SARC, must be resolved. Owners or other entities who anticipate constructing improvements on lands within The Reserve shall submit preliminary sketches with a site plan of such improvements to the SARC for informal and preliminary approval or disapproval. Conceptual drawings typically indicate overall design and site planning directions, but are not intended to fully resolve all technical or design issues. They

illustrate (1) the siting of conceptual building program elements; (2) the preliminary resolution of building form and massing; (3) the owner's general thoughts about architectural character, style and materials; (4) the visual and functional linkages; (5) the view of relationships with neighboring sites; (6) the grading required for driveway access and the siting of the building; and (7) the general extent of site disturbance. The Design and Development Guidelines shall provide additional specific requirements for the submission of conceptual plans. Persons contemplating the purchase of any Homestead may submit preliminary sketches with site plans for purposes of obtaining an informal approval hereunder. The SARC shall not be committed or bound by any preliminary or informal approval or disapproval. Upon request of an Owner, a conceptual review meeting of SARC may be scheduled with three weeks advance notice. Although not required to do so, the Owner and his design representative are strongly encouraged to make an informal presentation at the meeting to outline the development program and design goals. Feedback from SARC members will be more substantive if the underlying rationale for the applicant's design decisions is well articulated. SARC will evaluate the conceptual plans for conformity with the Design and Development Guidelines and the concepts discussed during the pre-planning meeting. Within one week following the conceptual review meeting, SARC shall issue a written response to the applicant that records outstanding issues and concerns and summarizes SARC members' comments. If unresolved issues appear to warrant it, SARC may recommend an interim meeting with the applicant before his plans are finalized and submitted for final review.

4.3.3 Final Plan Review. Final plan review cannot occur prior to the completion of conceptual design review. Upon request by an Owner, and with at least four (4) weeks advance notice, an on-site field visit and a final review meeting of SARC will be scheduled. It is strongly recommended that the Owner's design team attend the final plan review to present the plans. SARC will review the construction drawings and final site plans for conformity with the Design and Development Guidelines and determine that all outstanding issues discussed in previous review sessions have been resolved. The SARC shall adopt additional specific requirements for the submission of final plans. All copies of the complete plans and specifications shall be signed for identification by the Owner or his architect. The SARC shall have the right to request whatever additional specific information, plans, specifications, reports and the like it deems necessary to evaluate the development proposal throughout the approval and construction process. The SARC shall certify to the Owner, in writing, when the submittal is complete. The majority vote of the members of the SARC shall be required for approval of the plans. Within fourteen (14) days of the meeting, SARC in its sole discretion, shall either approve, approve with conditions or disapprove the final plan in writing. Written notice of approval will be sent to the applicant and to Bear Lake County. If an application is denied, the applicant may resubmit a revised plan at any time. Subsequent review may be subject to the payment of an additional fee. In the event the SARC fails to take any action within forty-five (45) days after the submittal of a complete package of final plans has been certified in writing by the SARC as complete, all of such submitted architectural plans shall be deemed to be approved. The SARC shall not unreasonably disapprove architectural plans. The SARC shall disapprove any architectural and site development plans submitted to it which do not contain sufficient information for it to exercise the judgment required of it by these

covenants. If the plans are approved, written notice of the approval will be sent to the applicant and to the Bear Lake County Building Department. If an application is denied, the applicant may resubmit a revised plan at any time, with review subject to payment of an additional fee.

4.4 Homestead Zones. Each Homestead is comprised of three (3) zones: (1) the Development Envelope; (2) the Driveway Access Corridor; and (3) the Natural Open Space Zone. On some Homesteads, there may be more than one location identified as a possible Development Envelope. Ultimately, however, only one Development Envelope shall be selected. The Design and Development Guidelines shall set forth design standards which shall apply to the final Development Envelope and the other zones and the permitted uses within each zone, provided the standards are consistent with this Declaration and the Development Agreement.

4.5 Building Permit. An Owner may apply for a building permit from the County at any time after final approval of the Owner's plans has been given by the SARC; provided, however, the plans submitted to the County shall not differ in any way from the plans approved by the SARC. If the plans submitted to the County differ in any way from the plans approved by the SARC, any approvals of the SARC shall be deemed automatically revoked. An Owner shall not submit to the County any application for a building or site modification permit within The Reserve before SARC has reviewed plans and determined that they comply with the Design and Development Guidelines. SARC approval is necessary prior to the filing of a building permit or site modification permit application with the County (see Section 8.14 below). The issuance of a building permit by the County for any plans not finally approved by SARC shall not in any way negate, waive or limit the requirement for final approval of all plans by SARC before any development activity can occur on any Homestead in The Reserve.

4.6 SARC Approval of Water Service Connection. Once a Central Culinary Water System is established for The Reserve, SARC will approve each water hook up within The Reserve. Phase I II and III (one, two and three) of The Reserve at Bear Lake have final plat approval from Bear Lake County lot with each lot owner having the right, subject to obtaining a permit from the Idaho Department of Water Resources to drill their own well for culinary water. It is planned that there will be a central culinary water system to provide culinary water in the future. Every subsequent phase of The Reserve at Bear Lake after phase III will be required to hook up to the central culinary water system. This water distribution system will be called Sam's Hollow Water Company. Sam's Hollow Water Company ("Sam's Hollow") is an Idaho nonprofit corporation organized to develop, own and operate water rights, pipe lines, tanks, and equipment to provide water for domestic and irrigation purposes to its Members. The Members of Sam's Hollow are the lot owners in the project who have the right to receive water service and are charged for the operation and maintenance costs of the systems once they are completed and installed. Each owner of any lot, by acceptance of a deed or conveyance thereof, whether or not it shall be so expressed in any such deed or instrument of conveyance, is deemed to accept membership in Sam's Hollow Water Company when that membership becomes available. If a culinary water system is not provided to each lot owner in phases I, II and III before they would like to build, they may drill their own well and provide for their own culinary water. Each lot in phases I, II or III has the option to obtain a well to provide for any culinary or irrigation water that the state will approve them for.

4.7 General Standards. The SARC shall evaluate, among other things: (i) the materials to be used on the outside of buildings or structures, (ii) exterior colors, (iii) harmony of architectural design with other structures within The Reserve, (iv) height and other design features to include minimum and maximum size of the home, (v) location with respect to topography and finished grade elevations, and (vi) harmony of landscaping with the natural setting and native vegetation, and (vii) consistency with the Design and Development Guidelines.

4.8 Rules and Regulations. The SARC may promulgate, adopt, amend and/or replace rules and regulations necessary to implement these covenants by the affirmative vote of a majority of the SARC. Rules and regulations may include submission requirements concerning the type of information, reports, plans and specifications and the like which need to be submitted with any application, site specific limitations or restrictions for each Homestead, and may also include guidelines governing the development of each Homestead. These rules and regulations need not be uniform for each Homestead and shall take into account the unique character of each Homestead. By way of illustration only and without requirement to do so, the SARC rules and regulations may address, and the SARC shall have the power and authority to regulate, any or all of the following: application procedures and processing fees; charges by any outside professionals or other costs incident to evaluating any application, security deposits or other financial arrangements which are required of an Owner who is developing a Homestead to guarantee the repair of any damage to Roads or other subdivision infrastructure and for revegetation and restoration of lands; colors and materials, including, but not limited to, roofs, chimneys, siding masonry and glazing; setbacks, height limitations, building profiles and driveway locations; construction staging, construction hours which may be controlled during certain times of the year, storage for construction materials, location of temporary construction facilities such as trailers, dumpsters and toilets; routing of utility extensions; drainage, grading and erosion control, landscape and vegetation, fencing, lighting, signage, and trails; concerns or objectives regarding maintenance of agricultural lands and preservation of wildlife; and privacy and visual characteristics.

4.9 Site and Architectural Review Committee Not Liable. Neither the SARC, the Board, the Association nor any of its Members shall be liable for damages to any person submitting any plans for approval, or to any Owner or owners of lands within The Reserve by reason of any action, failure to act, approval, disapproval or failure to approve or disapprove with regard to such plans. The SARC shall have no liability or responsibility for any representations made to any Owner or prospective owner by any third parties. The decision of the SARC shall be governed by these covenants and any rules or regulations duly adopted by the SARC pursuant to these covenants.

4.10 Written Records. The SARC shall keep and safeguard complete and permanent written records of all approved applications, including one set of the finally approved architectural and site development plans, and of all actions of approval or disapproval and all other formal actions taken by it under the provisions of this instrument. The records of the SARC shall be maintained by the Association at a location which it designates.

4.11 Inspection and Compliance. The SARC shall have no duty or obligation to make inspections of any construction; however, nothing herein shall prevent the SARC

from making inspections prior to, during, or after construction. Upon the completion of any work for which approved plans and specifications are required, the Owner shall give written notice of completion to the SARC. Within thirty (30) days after receipt of such notice, the SARC may inspect the work to determine its compliance with the approved plans. If the SARC finds that the work was not done in substantial compliance with the approved plans or any construction or change in natural conditions on any Homestead was undertaken without first obtaining approval from SARC, written notice shall be sent by the SARC to such Owner specifying the noncompliance and requiring the Owner to cure such noncompliance within thirty (30) days or any extension thereof granted. If the Owner fails to cure the noncompliance or to enter into an agreement to cure on a basis satisfactory to SARC within said thirty (30) day period or any extension thereof as may be granted, the Board may, at its option, cause the non-complying improvement to be removed or the noncompliance to be cured. Upon demand, the Owner shall reimburse the Association for all costs and expenses incurred by the SARC and/or the Board in taking collective action, plus all costs incurred in collecting amounts due, including reasonable attorneys' fees and costs (the "Compliance Assessment"). The Owner shall be personally liable for all such costs and expenses, and the Association also shall have a lien against the non-complying Homestead for the amount of all such costs and expenses. Any amounts not paid, without waiver of any other right or remedy, may be collected as an Assessment Lien (as defined in Section 5.1 below). Such lien shall be (i) evidenced by a statement executed by the Association and recorded in the real estate records of Bear Lake County, Idaho, (ii) subordinate only to the first Mortgage, and (iii) subject to foreclosure in the manner provided by Idaho law for mortgages upon real property. Notwithstanding any other provision hereof, the SARC shall not be responsible for: (a) determining that any construction or construction documents conform to applicable building codes, zoning or other land use regulations, (b) the accuracy or content of any construction documents or specifications prepared by any architect, engineer or any other person, (c) construction means, methods, techniques, sequences or procedures, safety precautions or subsequent loss, damage or failures due to soil or any other natural or man-made conditions that may exist, or (d) any failure to carry out any construction in accordance with plans or specifications.

5. ASSESSMENTS.

5. 1 Purpose of Assessments: Assessment Lien. All Members of the Association hereby covenant and agree, and each Owner by acceptance of a deed to a Homestead, including trustee's deed or sheriff's deed, is deemed to covenant and agree, to pay to the Association all Annual Assessments, Special Assessments, Compliance Assessments and such other assessments and charges which may be established and collected, as hereinafter provided Assessments, together with interest, costs, and reasonable attorneys' fees, if unpaid or uncollected, shall be secured by a lien (the "Assessment Lien") on the Homestead to which they relate in favor of the Association, and shall be a continuing servitude and lien upon the Homestead against which each such Assessment or charge is made. The Assessment Lien shall be a charge on the Homestead, shall attach from the date when the unpaid Assessment or charge shall become due, shall be a continuing lien upon the Homestead, together with interest, costs and reasonable attorneys' fees, and shall be the personal obligation of the Owner of such Homestead at the time the Assessment became

due. Where there is more than one Owner, each shall be jointly and severally liable for all Assessments. The Assessment Lien may be foreclosed by the Association in the same manner as a mortgage on real property upon the recording of a Notice of Delinquent Assessment or charge as set forth in Section 5.6 hereof. The Association shall be entitled to purchase the Homestead at any foreclosure sale. The grantee of any Homestead (i.e., purchaser or other transferee) shall be jointly and severally liable with his grantor (i.e., seller or other transferor) for all unpaid Assessments or other proper charges due the Association prior to, as well as subsequent to, the date of the recording of the conveyance without prejudice to the rights of said grantee to recover from grantor any Assessments paid. Notwithstanding the preceding, no Mortgagee shall be personally liable for any Assessment or other proper charges due the Association, except in the event such Mortgagee shall acquire title to the Homestead through a foreclosure or deed in lieu of foreclosure or otherwise. Any Mortgagee who so acquires title also shall be liable for Assessments or other proper charges due the Association arising on or subsequent to the date such Mortgagee became the record owner of the Homestead.

5.2 Annual Assessments. An Annual Assessment shall be made against each Homestead based upon an annual budget approved by the Board for the purpose of paying Common Expenses, cost center functions or services allocated to certain or all Homesteads, including but not limited to, reserves for operating deficiencies, a fund for capital improvements or any other matters reasonably determined by the Board to be the subject of an Annual Assessment. The assessments provided for herein shall commence as to all lots, units and homesteads on the date of closing when initially sold or transferred by the Declarant.

5.3 Special Assessments. In addition to the Annual Assessment authorized above, the Association may levy, in any Assessment period, a Special Assessment for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement, or for other extraordinary expenses, provided that any Special Assessment in excess of Five Hundred and No/100 Dollars (\$500.00), shall have the approval of sixty percent (60%) of the Owners who vote in person or by proxy at a meeting duly called for such purpose (except in the event of an emergency where there shall be no such limit). For purposes of this Section, the term "emergency" shall mean any loss or damage, actual or threatened, to persons or property. Except in emergencies, the limit on the amount (i.e. \$500.00) of the Special Assessment that may be levied by the Association without obtaining approval of the Owners is defined as the sum of the total assessments to be levied on all Homesteads and not the amount of the assessment applicable to each Homestead. Prior to adopting any emergency Special Assessment, the Association shall make reasonable efforts, via telephone or facsimile, to notify each Owner of the amount and purpose of the emergency Special Assessment to be levied.

5.4 Rate of Assessment. Except as otherwise provided herein, Assessments shall be fixed based on the amount of the Assessment divided by the number of Homesteads that are obligated to pay Assessments, and may be collected on a yearly basis or more often as the Board so determines. Where special cost centers are established as described in Section 3.10 above, Assessments will be charged to Homesteads participating in or

receiving benefits on such basis as the Board may determine. The Declarant shall not have any obligation to pay Assessments.

5.5 Establishment of Annual Assessment Period. The period for which the Annual Assessment is to be levied (the "Assessment Period") shall be the calendar year. From time to time, the Board in its sole discretion may change the Assessment Period. The Board shall fix the amount of the Annual Assessment against each Homestead at least thirty days in advance of the end of each Assessment Period. Written notice of the Annual Assessment shall be sent to each Member. Failure of the Association to fix the Annual Assessment or to send a bill to any Member in a timely manner shall not relieve any Member of liability for payment of any Assessment or charge. The due dates for payment of any Assessments shall be established by the Board.

5.6 Effect of Nonpayment. Any Assessment or charge or installment thereof not paid when due shall be deemed delinquent and, in the discretion of the Board, may bear interest from and after the due date until paid at a rate set by the Association, but in no event greater than applicable law. The delinquent Member also shall be liable for all costs, including attorneys' fees, which may be incurred by the Association in collecting a delinquent Assessment. The Board may also record a Notice of Delinquent Assessment or charge against any Homestead as to which an Assessment or charge is delinquent. The Notice shall be executed by an officer of the Board, shall set forth the amount of the unpaid Assessment, the name of the delinquent Owner and a description of the Homestead and shall, upon recording, constitute an Assessment Lien. The Board may, but shall not be required to, establish a fixed fee to reimburse the Association for the Association's cost in preparing and recording such notice, processing the delinquency and recording a release of said lien, which fixed fee shall be treated as part of the delinquent Assessment secured by the Assessment Lien. The Association may bring an action at law against the Owner personally obligated to pay the delinquent Assessment and/or foreclose the lien against said Owner's Homestead. No Owner may waive or otherwise avoid liability for the Assessments provided for herein by non-use of the benefits derived from Assessments or abandonment of his Homestead. No delinquent Member shall be entitled to vote on any Association matters until the assessment due, including any interest and/or other costs, shall have been paid in full. Where assessments due from any Member are more than six (6) months delinquent, the Association may temporarily cut off any or all Association services or benefits to such Homestead, until all delinquent assessments are fully paid.

5.7 Priority of Lien. The Assessment Lien provided for herein shall be subordinate to:

- (a) Liens for taxes and other public charges.
- (b) Any first Mortgage or Deed of Trust lien.
- (c) Except as set forth in 5.7(a) and 5.7(b) above, no sale or other transfer of any Homestead shall affect, extinguish or terminate an Assessment Lien.

5.8 Statement From Association. Upon written request and payment of such reasonable fee as may be set by the Association, the Association shall issue a written

statement to any grantee or Mortgagee verifying the status of all Assessments or charges affecting the Homestead. Any statement as to the existence or amount of any delinquencies, absent manifest error, conclusively shall bind the Association.

5.9 Assessments for Tort Liability. In the event of any tort liability against the Association which is not covered completely by insurance, only those Owners, if any, directly responsible for the negligent or willful acts or omissions giving rise to such tort liability shall be obligated to contribute for the payment of such excess liability as a Special Assessment. Owners, if any, liable for a Special Assessment hereunder may be assessed by the Association in the same or different proportions based on legal and equitable principals regarding liability for negligent or willful acts or omissions. For acts or omissions of the Association and its Subsidiaries and their officers, directors, agents and employees, the insurance carried by the Association and/or its Subsidiaries shall be primary with regard to any other insurance.

6. INSURANCE.

6.1 Types of Insurance. The Association shall obtain and keep in full force and effect the following insurance coverage:

(a) Property and casualty insurance with extended coverage and standard at-risk endorsements, including vandalism and malicious mischief, on Property Conveyed or Leased by Declarant or any other Association Property. The total amount of insurance after application of deductibles shall be 100% of the replacement value of the insured property exclusive of land- foundations and other items normally excluded from property policies.

(b) Public liability and property damage insurance, including medical payments insurance in an amount to be determined by the Board, covering occurrences commonly insured against for death, bodily injury and property damage arising out of or in connection with the ownership, operation, maintenance or other use of Association Property. This policy shall also cover operation of automobiles or other vehicles or equipment on behalf of the Association. The initial minimum public liability insurance to be carried by the Association shall be One Million Dollars and No Cents (\$1,000,000.00) and limits of coverage shall be reviewed annually to determine whether the Association should carry public liability insurance in excess of this minimum amount. The maximum deductible amount for the insurance required by this subsection (b) shall be \$25,000.00.

(c) Workmen's compensation and employer's liability insurance in the amounts and in the forms required by law unless the Association has no employees which would require such coverage.

(d) Fidelity coverage in the minimum amount of \$250,000 against the dishonesty of employees, destruction or disappearance of money or securities and forgery. This policy shall also cover persons who serve the Association without compensation.

(e) Coverage of any person(s) who is or was a member of the Board, officer, employee, fiduciary or agent of the Association against any liability asserted against or incurred by such person in that capacity or arising from such person's status as a director, officer, employee, fiduciary or agent, whether or not the Association would have the power to

indemnify such person under the applicable provisions of any State of Idaho statute, and against libel, slander, false arrest, invasion of privacy and errors and omissions and other forms of liability generally covered in officers and directors liability policies.

(f) Coverage against such other risks of a similar or dissimilar nature as the Board deems appropriate.

(g) With respect to Subsidiaries, any or all of the insurance coverage described in this Section 6.1.

(h) Notwithstanding the preceding, the Association shall be permitted to omit any of the coverage described in (d) above where premiums are unreasonably expensive or the coverage is not available in this geographic area or the coverage is not offered by a carrier of sufficient credit rating.

6.2 Named Insured(s) and Interests. The Association and, where appropriate, Subsidiaries of the Association, shall be the named insured(s) under each of said policies. Where appropriate, the named insured(s) may also be the officers and directors of the Association. Policies of insurance also shall name Declarant as an insured so long as it shall retain any interest in The Reserve. The certificate or memoranda of insurance, duplicate originals of all policies and renewals, and proof of payment of premiums shall be issued to the Association, and upon request, to Declarant and to any Owner who is a named insured or to any Eligible Mortgage Holder. Provided that such arrangements can be made with the Association's insurers and provided further there shall be no additional cost to the Association (other than a normal cost not to exceed \$100.00 per policy annually). Each policy shall provide that twenty (20) days written notice will be given to each Owner prior to any cancellation of such policy. The Association shall promptly report in writing to all Owners any claims made against the Association, which report shall contain the name of the claimant, date the Association received notice of the claim, amount of the claims, if known, and a brief description of the nature of the claim; notwithstanding the provisions of Section 10.2 of this Declaration, Section 5.9, the last sentence of Section 6.1(b), Section 6.1 (e) and the fourth and sixth sentences of this Section 6.2 shall not be amended without the prior written consent of all Owners having been first obtained.

6.3 Insurance Proceeds. The Association shall receive the proceeds of any settlements resulting from any insurance purchased by the Association. In the event of damage or destruction due to fire or other disaster, if the insurance proceeds are sufficient to reconstruct the improvements, the Association shall promptly cause such reconstruction to occur. If the insurance proceeds are not sufficient for such purpose, the Association may levy a Special Assessment against the Owners for such deficiency.

6.4 Indemnification of Members of the Board. The Association shall indemnify the directors of the Association in all cases in which a corporation or association may

indemnity a director under applicable statutes. The Association shall consider and act as expeditiously as possible upon any and all requests by a director for indemnification or advancement of expenses.

6.5 Indemnification of Officers, Employees and Agents Who are Not Members of the Board. The Board may indemnify and advance expenses to any officer, employee or agent of the Association who is not a director of the Association to any extent consistent with public policy, as determined by the general and specific actions of the Board.

7. GENERAL RESTRICTIONS.

7.1 Residential Uses. Each Homestead shall be used only for residential purposes and such accessory or incidental uses thereto as may be permitted within The Reserve, now or hereafter in effect, and applicable zoning or recreation easements which are consistent with this Declaration. No commercial activities may be conducted on any Homestead that is visible outside the home. Any leasing of any unit including any homestead or lot requires prior approval of the Board. On each Homestead there may be constructed only one single family residence. On a few of the largest pre-designated homesteads there may also be one detached guest house. Permitted uses also include, when approved by SARC or the Board, barns and accessory out-buildings and such accessory or incidental Structures as may be permitted by this document and Bear Lake County.

7.2 Development Envelope. No development activity or changes in natural conditions of any lands shall occur outside any Development Envelope except as may be approved in writing by the SARC consistent with the Design and Development Guidelines and as otherwise specifically permitted in this Declaration. With regard to all Homesteads in The Reserve, all development activity shall occur within the Development Envelope selected, and, with regard to driveways, within the Driveway Access Corridor. The only development activity which will be permitted in the Natural Open Space Zone shall be (a) land, forest and/or project management, (b) maintenance of roads and common facilities and (c) utility construction, maintenance, repair or replacement, (d) any amenities construction created by the declarant or association this includes maintenance and repair.

7.3 Selection of Development Envelope. The construction of a residence within a particular Development Envelope shall constitute the irrevocable and exclusive selection by the Owner of the Homestead of that particular Development Envelope. The location of the proposed Development Envelope for each Homestead in each Phase of The Reserve shall be approved by the SARC as provided in the Design and Development Guidelines as development plans are processed by each Owner.

7.4 Relocation of Development Envelopes. Subject to the requirement to obtain any requisite approvals from the County, Declarant reserves the right as to any Homestead owned by Declarant to relocate a Development Envelope, delete any existing Development Envelope or designate a new Development Envelope, including access

thereto. All Owners of Homesteads in The Reserve and SARC: (i) hereby consent to said relocation, deletion or designation of new Development Envelopes by Declarant or any access thereto, and (ii) waive and relinquish any right to oppose, directly or indirectly, any land use application processed by Declarant for the approval of any relocation or deletion of a Development Envelope or the designation of a new Development Envelope or access thereto, as the case may be. Owners of Homesteads also shall have the right to obtain any requisite approvals from SARC to relocate, delete or designate new Development Envelopes; provided, however: (a) the SARC shall first approve, in writing, such proposed relocation, deletion or designation of a new Development Envelope, and (b) Owners of Homesteads adjacent to the Owner desiring to obtain such approvals shall not be deemed to have waived or relinquished any right to oppose any land use application applied for by such Owner, and (c) no land use application applied for by an Owner may change, relocate or in any way interfere with The Reserve Roads, including access to Development Envelopes on other Homesteads, or interfere with utilities or trails.

7.5 Pet Restrictions. Uncontrolled pets have long been recognized as a significant source of disturbance and animal mortality in human-occupied wildlife habitats. Dogs frequently harass and kill wildlife, including game, and domestic cats are a significant source of mortality for songbirds. Similarly, wild animals are often the cause of mortality to domestic dogs and cats. Consequently, dogs and cats will be permitted in The Reserve, but must be controlled by Owners and will not be allowed to roam free. Secure containment facilities not exceeding 1,000 square feet must be located immediately adjacent to the primary residence on a Homestead and within the Development Envelope. If facilities are inadequate to contain domesticated pets, then the pets must be removed from the Homestead until adequate facilities have been constructed. Owners will be required to control their dogs at all times. Outside the Owner's property boundary, dogs must be controlled by a leash of not more than 12 feet in length, under the direct control of the Owner or authorized representative. Visitors should not be encouraged to bring dogs and cats on-site. Guests of Owners, contractors, subcontractors, service and delivery people and the like shall comply with any pet control measures. The Association shall be responsible for enforcing pet control regulations. Owners not in compliance with "these covenants will be responsible for any and all enforcement costs incurred by the Association. The Association, from time to time, shall adopt penalties and a schedule of fines relative to violations of the covenants regarding pets, including the requirement for removal of unrestrained pets from The Reserve. Non-payment of a fine or failure to remove unrestrained pets shall be considered a separate violation for each day the pet remains unrestrained. Owners are prohibited from feeding dogs and other pets outside their homes, including decks and similar enclosures, to avoid attracting nuisance wildlife or predators.

7.6 Other Pets. Pets, other than dogs and cats, shall be permitted subject to obtaining the prior approval of the Association, which approval may include conditions or rules as to maintaining such pets. The Association may prohibit altogether the maintenance of certain pets within The Reserve.

7.7 Horses. Horses shall be permitted only on specifically designated Homesteads. The Association shall adopt specific Rules and Regulations concerning the allowance of horses on any of the Homesteads in The Reserve, and all Owners and their guests and invitees shall be bound and governed by said Rules and Regulations. In any Phase of The Reserve, the Board may designate, pursuant to a positive recommendation by the SARC, additional Homesteads on which the keeping of horses may be permitted. The Board shall strictly limit the number of horses permitted on any Homestead, which number may vary depending on the size, location and special circumstances relating to the specific Homestead. In every case, however, the designation of any lot for the keeping of horses, including those designated by the Declarant, shall be considered a conditional use subject to conditions which the Board may determine are reasonably required to mitigate any possible impacts resulting from the designation. For any Homestead which has been designated for the keeping of horses, if the Board reasonably determines that the lack of proper maintenance by the Owner makes the presence of horses a nuisance to surrounding Owners, it may, by majority vote) revoke the designation and require the horses to be removed.

7.8 Other Livestock. No livestock, other than horses, shall be permitted on any Homestead without first obtaining the approval of the Association. Nothing herein shall obligate the Association to approve livestock, other than horses on any Homestead. Any approval granted by the Association shall be subject to such conditions as the Association may reasonably determine.

7.9 Further Subdivision. Except as allowed in Sections 7.10 or 7.11 below, no Homestead shown on the Final Subdivision Plats shall ever be subdivided by an Owner into smaller parcels or conveyed or encumbered in any less than the full dimensions shown on the Subdivisions Plat Maps; provided, however, conveyances, easements or dedications for utilities may be granted over portions of a Homestead. Notwithstanding the preceding, there is reserved to Declarant, in Section 7.11 below, the right to further subdivide, convey or encumber in less than full dimensions any Homestead in The Reserve owned by Declarant; provided, however, no such subdivision or conveyance may increase the development density allowed by Bear Lake County Planning and Zoning as per the approved master plan.

7.10 Boundary Line Adjustments by Owners. Notwithstanding the provisions of Section 7.9 above, a boundary line adjustment by Owners between two Homesteads shall be permitted provided that:

- (a) The approval of the Association, the SARC and the County is first obtained;
- (b) No Development Envelope is affected unless agreed upon by both owners and SARC;
- (c) The Owners desiring such adjustment shall pay all reasonable costs incident, thereto, including preparation, approval and recording of an amended plat as may be required by the County and Declarant.
- (d) Boundary line adjustments between Homesteads and the Common Areas shall also be permitted; provided however, there is compliance with subsections (a), (b) and (c) above and said adjustment has been approved in writing by the Declarant

(e) In the event of any boundary line adjustments as permitted in this Section or under Section 7.11 below, and subject to requirements of Section 8.12, if applicable, it shall be sufficient for any amended Final Subdivision Plat to be signed solely by the Owners of the properties whose boundaries are affected thereby and any Eligible Mortgage Holders and in the case of any property adjacent to The Reserve lands, the owner thereof and any lien holder affecting such adjacent property.

7.11 Boundary Line Adjustments by Declarant. Notwithstanding the provisions of Sections 7.9 and 7.10 above, the following boundary line adjustments by Declarant shall be permitted;

- (a) As between the boundary of any Homesteads owned by Declarant;
- (b) As between the boundary of any Homesteads owned by Declarant and any Common Area.
- (c) As between the boundary of any Homesteads owned by Declarant and property adjacent to The Reserve lands abutting such Homesteads.

As to any boundary line adjustment under this Section, Declarant shall obtain any requisite approvals required by the County and shall pay all reasonable costs incident thereto, including preparation, approval and recording of an amended plat.

7.12 Utilities. With respect to development by Owners on any Homestead, all domestic water, electrical, telephone and other utility pipes or lines shall be buried underground and shall not be carried on overhead poles or above the surface of the ground. Any areas of natural vegetation or terrain disturbed by the burying of utility lines shall be revegetated to SARC standards by and at the expense of the Owner causing the installation of the utilities no later than the next growing season following such installation. Notwithstanding any other provision hereof, there is reserved to Declarant the right to temporarily install overhead poles, towers or above ground pipes for utilities required during construction of infrastructure improvements but shall be obligated to remove them once construction has been completed.

7.13 Enclosure of Unsightly Facilities and Equipment. All unsightly facilities, equipment and other items, including, but not limited to those specified below, shall be enclosed within a covered structure. Any unapproved motor home, trailer, boat, truck, tractor, garden equipment and any similar items shall be kept at all times, except when in actual use, in an enclosed garage. Any refuse or trash containers, utility meters or other facilities, service areas, or storage piles shall be enclosed within a structure or appropriately screened from view by planting or fencing approved by the SARC and adequate to conceal the same. No lumber, metals, scrap, refuse or trash shall be kept, stored or allowed to accumulate on any Homestead, except building materials utilized during the course of construction and only for such reasonable periods of time as is necessary prior to their collection or disposal.

7.14 Satellite Dishes. Satellite dishes shall be permitted on Homesteads subject to obtaining any requisite or applicable County approvals. Owners desiring to install satellite, relay, uplink or other communication dishes or facilities shall first obtain approval from the SARC. Any proposal for a dish or other facilities more than four feet

in diameter by Owner shall also include a plan for berming, screening, fencing and planting so as to conceal the dish or other facilities. Plans for any dish or other facilities shall include details as to location, size, color, installation, maintenance and other specifications as the SARC may reasonably require.

7.15 Hunting and Firearms. The discharge or shooting of firearms and any types of hunting on property included within The Reserve is prohibited. The Property Manager or other employees or agents of the Association shall be permitted to use firearms anywhere within The Reserve, including on any Homestead, only in connection with wildlife management or predator control; provided, however, that any Owner shall be given reasonable notice of entry, except in the case of emergency.

7.16 Drainage and Erosion Control. No Owner shall do anything which shall impair or adversely affect the natural drainage on any Homestead, or divert drainage or irrigation water onto another Homestead or deprive any other Homestead of its natural drainage course. No Homestead improvements may cause new erosion or exacerbate existing erosion or draining patterns where such changes are, in the opinion of the Association, detrimental to The Reserve lands. Each Owner shall install culverts or other structures where driveways cross drainage ways as required by the SARC. The minimum size of any culvert and the construction methods utilized in installing any drainage structure shall also be approved by the SARC. The Association retains the right over and across all Homesteads, other than Development Envelopes, to engage in any drainage, soil or erosion control activities.

7.17 Pest Control. All pest control shall be implemented at the expense of such Owner. Any pest control techniques shall be consistent with any Idaho Fish and Game wildlife management techniques. None of the foregoing restrictions shall apply to pest control activities contained wholly within residences or other structures.

7.18 Noxious or Offensive Activity and Nuisance. No noxious or offensive activity or sound shall be conducted on any portion of The Reserve at any time, nor shall anything be done or permitted which may become a nuisance to, or unreasonably disturb, Owners of other Homesteads, or be injurious to the reputation of The Reserve.

7.19 No Mining, Drilling or Quarrying.

- (a) Mining, quarrying, tunneling, excavating or drilling for any substances within the earth, including oil, gas, minerals, gravel, sand, rock and earth, shall not be permitted within the limits of The Reserve except as allowed by this Section.
- (b) Drilling for water by Declarant its successors and/or assigns, for domestic, agricultural or recreational purposes is hereby expressly permitted within the limits of The Reserve, excluding Development Envelopes.
- (c) Drilling of individual water wells shall be permitted by Owners of Homesteads in accordance with the provisions of Section 9.5 and 9.6 below.
- (d) Excavation of rock or earth shall be permitted by Declarant or the Association to the extent necessary in the performance of their respective obligations under this Declaration and in the case of Declarant with respect to the construction and installation of The

Reserve infrastructure, amenities or as otherwise required by the Development Agreement.

7.20 Completion of Construction. Any construction activity on any Homestead in The Reserve shall have exteriors and landscaping completed and fully cleaned up within twenty four (24) months from its commencement or a variance shall be obtained from the SARC to allow for a longer period of construction upon proof of due diligence.

7.21 Driveways.

- (a) Driveway design, location, surfacing material and construction methods including without limitation, application of an approved dust suppressant, shall be approved by the SARC. The design and construction of driveways shall comply with County standards and specifications as applicable governing driveways.
- (b) Each Owner shall be responsible for ongoing dust control of private driveways which are not paved.
- (c) All access driveways which serve only one (1) Homestead shall be constructed at the expense of the Owner whose Homestead is being served by that particular driveway. Provided that the access driveway is constructed to SARC approved standards, the Owner may request that the Association include the snowplowing of such driveway in the general snowplowing operation for The Reserve. Driveway easements shown on the plat shall also include, by extension, the necessary slope rights to construct same. The Association shall be allowed to subcontract to others the snowplowing operations. Costs of snowplowing access driveways shall be charged as a special cost center to Owners based on the length of the driveway and other conditions peculiar to each such driveway. Except as to snowplowing, Owners shall remain responsible for the maintenance and repair of access driveways to their individual Homesteads.

7.22 Trees and Landscaping. Owners may not cut, remove, relocate or alter trees, bushes or natural vegetation except with the approval of the SARC. Any area of disturbed ground, which is not a driveway, must be revegetated with grass or the Big Game Winter Range mix recommended by the Idaho Fish and Game. Lot owners shall control all noxious weeds within their Lot boundary. Lots, where possible, shall provide a means for wildlife to traverse. The land shall be left in its natural state, with the exception of reasonable yards, trees, shrubs and the like for aesthetic purposes. Vegetable gardens for use of the lot owner only are permitted. A maximum of 40% of the property may be disturbed from its natural habitat. A maximum of one tenth (1/10) of one acre can be irrigated on any one lot. Each lot owner must plant a minimum of 10 Idaho native trees at the start of any construction on their lot. These trees should be a minimum of 8 feet in height when planted. All trees must be kept alive and growing. Dead trees must be replaced. All dogs with potential of chasing wildlife must be restrained, penned, or on a leash, etc. during that time. No commercial agriculture or gardening, or sale of produce shall be permitted. The cutting, removal, relocation or alteration of trees, bushes or natural vegetation by the Association or Declarant may occur in a manner consistent with the natural landscaping in the Reserve, as necessary for Declarant to construct infrastructure improvements, or as necessary for the general operations uses or activities described in this Declaration, or as hereafter agreed and entered into by the Association.

7.23 Damage by Owners. Each Owner is responsible for any damage caused to Roads, ditches, fences, trails, natural draining courses, utilities, Association Property, or to other Homesteads or property thereon during the construction of improvements upon his Homestead or by any vehicle belonging either to him or anyone using the Roads of The Reserve while engaged in any activity benefiting the Owner. Each Owner shall also be responsible for any damage caused by utility cuts in Roads, washouts and runoff damage caused by failure to properly install culverts, and to repair any such damage in a timely manner. From time to time, the Association may adopt rules and regulations to enforce the provisions of this Section 7.23, including the requirement for financial arrangements or other deposits payable at the time of approval by the SARC to ensure the repair of any damage caused to The Reserve infrastructure during construction activity performed at the direction of any Owner.

7.24 Fences. All fences to be erected by Owners within, or outside of, Development Envelopes shall be approved by SARC; shall be in harmony with the name, setting and surroundings of The Reserve and the development on said Homestead and shall adhere strictly to the Design and Development Guidelines. Notwithstanding the preceding, the Declarant or the Association may maintain or construct permanent or temporary fences as part of The Reserve operations, on all lands in The Reserve, other than Development Envelopes, which are consistent with the intent of the Design and Development Guidelines. In addition to all the foregoing, any fencing of lands within The Reserve, whether within or outside Development Envelopes, shall be consistent with this Declaration and the Design and Development Guidelines. Notwithstanding the preceding, dog kennels meeting the requirements of the rules and regulations adopted by the Association shall be permitted subject only to an approval of the kennel design by SARC.

7.25 Restricted Access Limitations. No construction, maintenance or service traffic other than project maintenance traffic shall be allowed on any Secondary Access unless specifically approved in writing by the Association and the SARC or in the event of an emergency. All construction, maintenance or service traffic to The Reserve lands, other than project maintenance traffic, shall use the Primary Access or other access approved by the Board or the SARC. Reference to any easement agreement or amendment to any easement agreement with Canyon Estates, access through Canyon Estates private roads is considered secondary access and is subject to the above limitations with the following exceptions: Access for the 23 most Western Lots in the Reserve is unrestricted except Access for road construction and maintenance or for the construction of improvements upon the 23 western most lots in the Reserve will be restricted to the North access route in Canyon Estates. The North access route is access from the North gate at Canyon Estates to the point where the Southwest corner of The Reserve abuts the Northwest corner of Canyon Estates. This restriction is contained in the "Canyon Estates easement agreement", this document is a public record. It is recommended that you have it reviewed by a professional.

7.26 Sewage Disposal Systems. All building sites within all Phase 1 of The

Reserve will be served by individual septic systems. Certain future phases of The Reserve will be served by the Fish Haven Sewer System; Homestead owners in these phases will be required to pay the requisite sewer connection fees imposed by the Fish Haven Sewer District.

7.27 Limits on Certain Vehicles. The operation of snowmobiles within The Reserve is strictly prohibited except on specified paths. Pedal bicycles, mountain bikes and other non-motorized recreational vehicles shall be allowed only on specified trails and roadways. Subject to the foregoing, the Association shall have the authority: (a) to prohibit entirely from The Reserve certain motor vehicles, all terrain vehicles (ATV's), other off-road vehicles and all means of transport whatsoever, shall be allowed only on The Reserve roads, specified trails and driveway access. Subject to the foregoing, the Board shall have the authority: (a) to prohibit entirely from The Reserve certain motor vehicles that may be considered to emit noise or other pollution in excess of levels or standards promulgated by the Board and (b) to promulgate such other rules and regulations as it deems appropriate with respect to the operation of motor vehicles, non-motor vehicles and all other means of transport of whatever nature on The Reserve lands. The Reserve has an "easement agreement" in place with the neighboring subdivision "Canyon Estates", one of the main goals of this agreement to restrict recreational vehicle traffic. This agreement contains the following statement:

"Recreational Vehicle access restriction

This agreement restricts recreational vehicle access. This access should be considered a privilege by both parties and is not intended to provide a "racetrack" for recreational vehicles over neighboring private roads. There will be a strict "three strikes and you're out" policy when it comes to abuse of the access being granted. When a property owner from either subdivision violates the agreed upon rules of conduct for recreational vehicles on each other parties private roads, that property owner will receive a written warning. Upon receipt of the third warning that property owner will lose the privilege of accessing the private roads of the neighboring subdivision with any recreational vehicle.

The homeowners associations agree to continually update the "rules of recreational vehicle conduct" and make these rules available to all property owners that are affected in both subdivisions. Upon mutual consent these rules may evolve and change from time to time."

7.28 Signs. The Association shall have the right to post signs on any Homestead prohibiting trespassing or hunting, to protect boundary lines or for any other purposes consistent with The Reserve operations. Homestead "for sale" or "for rent" signs or signs advertising names of contractors, landscapers, brokers, lenders or the like are required to meet the Design and Development Guidelines for such signs. Except as provided herein, any other signs, including specifically, permanent or temporary address and/or owner identification signs, shall be approved, in writing, by the SARC prior to being erected and shall conform to the Design and Development Review Guidelines for such signs. Notwithstanding the foregoing, Declarant shall be permitted to maintain temporary signs for general construction and marketing purposes.

7.29 Ponds. Subject to the provisions of this Declaration and the requirement to obtain any County land use approvals, as applicable, Owners of Homesteads may, at their expense, construct, operate and maintain ponds. Such ponds may be established provided they are consistent with all provisions of the Development Agreement and the Design and Development Guidelines. Prior to any development, the location, size, construction specifications and operational plans for such ponds must be approved by the SARC. The SARC shall establish rules and regulations as to the size of the ponds and the water sources which will be utilized to fill the ponds. Owners shall be solely responsible for the cost and the acquisition of any water rights and permits and for the drilling and operating of any well for any such on-site ponds.

8. EASEMENTS AND RIGHTS RESERVED.

8.1 Existing Easements Within The Reserve and Reservation of Right to Grant Additional Easements. The lands within The Reserve are subject to all easements of record which affect said lands at the time of the recording of this Declaration, whether or not said easements are described or otherwise reflected in this Declaration or on the Final Subdivision Plats and any other easements which are not of record, but which may hereafter be determined by a court to affect land within The Reserve. The Declarant reserves the right to grant easements to other land owners in the development area adjacent to The Reserve, over the Easements described in this Declaration which Declarant, in its sole discretion, may deem necessary or desirable.

8.2 Development of The Reserve. Declarant reserves the right for itself (and to the extent necessary, such right is hereby extended to the Association and its Subsidiaries, agents, employees and contractors), to enter upon any Common Area, Easement, or any Homestead, Association Property or Property Conveyed by Declarant and to do whatever Declarant deems necessary or advisable in connection with construction or other work to be performed by Declarant for the development of The Reserve subdivision improvements, including but without limitation, the construction and installation of a domestic water system, fire protection, drainage, irrigation and water storage facilities, the installation of all utilities, the construction of all Roads, grading and landscaping, the construction of all buildings and other improvements to be constructed by Declarant, including amenities, the erection or placement of such temporary structures as may be reasonably necessary to facilitate such development, and the placement of such sign or signs as Declarant may deem advisable in connection with the construction of the subdivision improvements and with the sale of the Homesteads. The foregoing rights shall remain in Declarant and may also be exercised by Declarant as to any Property Conveyed by Declarant notwithstanding such conveyance to the Association. No rights reserved in this Section 8.2 shall extend into any Development Envelopes on any Homestead after the closing on the sale to an Owner other than Declarant.

8.3 Utility Easements. Declarant and the Association hereby reserve the right: (a) to grant non-exclusive easements at any time for utilities, ditches, irrigation and drainage purposes, including, without limitation, for the installation, relocation,

operation, maintenance, repair and replacement of water and sewer mains, utility lines, pumps, pipes, transformers, towers, tanks, wires, conduits, culverts, ditches, ponds and other necessary facilities or systems and for ingress and egress to and from the same over and across any portions of The Reserve including any Homestead except across any Development Envelope; and (b) without extinguishing the aforementioned general easement, from time to time to substitute one or more specific easements for the use by utility companies or others by recording of an instrument in the real estate records of Bear Lake County, Idaho, Unless the written consent of Declarant or the Association is first obtained, utility companies shall have no right to use easements over The Reserve lands to serve properties adjacent to The Reserve lands. If Declarant shall grant any easements to utility companies to serve properties adjacent to The Reserve, Declarant shall be entitled to receive any consideration paid by such adjacent property owner or the utility company for such easement. When necessary, Declarant shall have the right, without obtaining the consent of any Owner, Mortgagee or the Association to amend the Final Subdivision Plat(s) as applicable to reflect any relocation of existing easements shown thereon or the granting of new easements for any of the purposes permitted hereunder. Phase I, II and III (one, two and three) of The Reserve at Bear Lake have final plat approval from Bear Lake County with each lot owner having the right, subject to obtaining a permit from the Idaho Department of Water Resources, to drill their own well for culinary water. It is planned that there will be a central culinary water system to provide culinary water in the future. Every subsequent phase of The Reserve at Bear Lake after phase III will be required to hook up to the central culinary water system. This water distribution system will be called Sam's Hollow Water Company. Sam's Hollow Water Company ("Sam's Hollow") is an Idaho nonprofit corporation organized to develop, own and operate water rights, pipe lines, tanks, and equipment to provide water for domestic and irrigation purposes to its Members. The Members of Sam's Hollow are the lot owners in the project who have the right to receive water service and are charged for the operation and maintenance costs of the systems once they are completed and installed. Each owner of any lot, by acceptance of a deed or conveyance thereof, whether or not it shall be so expressed in any such deed or instrument of conveyance, is deemed to accept membership in Sam's Hollow Water Company when that membership becomes available. If a culinary water system is not provided to each lot owner in phases I, II and III before they would like to build, they may drill their own well and provide for their own culinary water. Each lot in phases I, II or III has the option to obtain a well to provide for any culinary or irrigation water that the state will approve them for. Each owner of any lot, by acceptance of a deed or conveyance thereof, whether or not it shall be so expressed in any such deed or instrument of conveyance, is deemed to accept the fact that Sam's Hollow may, pending IDEQ approval, become either a Public Utility, or be deeded to "The Master Resort Association of the Reserve at Bear Lake" at any time before or after their acceptance of a deed. When a central culinary water system is built, the Declarant is responsible for the installation of the water system and shall also make necessary arrangements with utility companies to provide electric, gas, telephone and television cable service to The Reserve when such services become available to The Reserve. Electric, gas, telephone and television cable service may be extended to The Reserve in phases. Accordingly, utilities may not be available to all Homesteads at the same time and any Owner, prior to the purchase of a Homestead, shall be responsible for obtaining from Declarant a schedule for the phasing of utilities.

8.4 Operations Easement. There is hereby reserved to Declarant and the Association the right from time to time to enter upon Common Areas, Easements, or any Homestead, Association Property, Property Conveyed by Declarant, or any other portions of The Reserve to perform or carry out any of The Reserve operations, drainage or fence maintenance, repair or operation of the water or utility systems, or any other actions reasonably required to implement wildlife, agricultural, weed control or livestock control (including controlled burning or cutting to enhance wildlife habitat), or other operations approved by the Association or Master Resort Association.

8.5 Emergency and Service Access Easement. A non-exclusive easement for ingress and egress is hereby granted to all police, sheriff, fire protection, ambulance, trash collection, mail service and other similar emergency and service agencies or persons, now or hereafter serving The Reserve and its residents and to Declarant, the Association or its Subsidiaries, the Property Manager or any of their employees, to enter upon all Common Areas, Easements, Association Property, Property Conveyed by Declarant, and on any Homesteads or other property in The Reserve in the lawful performance of their duties. Private security contracts or other security arrangements made by Owners must first be approved by the Association.

8.6 Agricultural Operations. There are hereby reserved to the Association perpetual easements over and across all Homesteads for the purposes of conducting agricultural activities. Unless the written consent of the Owner of the affected Homestead is first obtained, agricultural activities shall be limited to the growing, irrigating and cutting of hay or grass, weed control and maintaining or enhancing existing meadow vegetation.

8.7 The Reserve Private Trail Easement. There may be a private trail easement created for the use and enjoyment of Owners and their guest's over reasonable sections of the Reserve staying well away from any Development Envelopes. Said easement is for the purpose of trails and a trail system as presently located or as hereafter located or relocated, constructed and/or enlarged for purposes of hiking, biking, horseback riding, jogging, cross-country skiing, snow shoeing and other activities consistent with this Declaration (the Private Trail Easement). Use of the Private Trail Easement by the public is prohibited. The Reserve trail system within the Private Trail Easement shall be constructed by either Declarant or the Association and thereafter maintained and operated by the Association as a Common Expense. Construction and operation of the trail system may include cutting, clearing, stabilizing or maintaining trails, the posting of signs and erosion control. The use of the trail system shall be subject to such rules and regulations as the Association shall from time to time establish. The Association shall indemnify Owners of Homesteads subject to the Private Trail Easement in regard to any injury or death to persons or damage to property occurred by use of the trails. The Association shall have authority to establish trail set-backs from Development Envelopes. Each Owner, members of their families and their guests or invitees assume all risk in connection with use of the trails. Unless the prior written consent of an Owners is first

obtained, no amendment to this Section 8.7 shall be adopted which would limit or impair the right of any Owner to use the Private Trail Easement for hiking, biking, horseback riding, cross country skiing or other purposes as allowed in this Declaration together with the right to enter upon other Homesteads in The Reserve for such purposes; provided however, Declarant and/or the Association may modify or relocate specific trail locations on any Homestead to accommodate the Owner thereof.

8.8 The Reserve Public Trail System. Within The Reserve there will be a public trail system which shall be reflected on the Final Subdivision Plat(s), and shall be maintained by the Master Resort Association and/or Bear Lake County. The Association shall have the responsibility to notify the County when violations occur in the terms and conditions under which the rights to the public trail system are granted. If the terms and conditions are not properly enforced by the County, the use of the trails may be suspended by the Declarant or the Association. The cost of Liability insurance or other costs may become prohibitive for the Association or the Declarant to allow public access to these trails. If this becomes the case the County may, at the Declarants or Associations option, be given the option to accept dedication of these trails as County property. If this dedication is declined, the use of the trails may be suspended by the Declarant or the Association.

8.9 Road Easements. By separate grant of easement, Declarant, while not obligated, may grant to the Association, and the Association hereby agrees to accept, permanent, perpetual and non-exclusive road easements for the purpose of providing access to all Homesteads within certain phases of The Reserve (the "Grant of Easement") and all road easements created thereby shall be for the use of the Association, its officers, employees, agents, contractors and or its Subsidiaries. Said easements shall be located under, over, along and across those areas designated as Road Easement and Driveway Easement on the Final Subdivision Plat(s) (collectively, the "Road Easements") and shall include all embankment slopes created by the construction of the improvements within the Road Easements, an drainage structures, utilities, walls, bridges and other structures appurtenant to the Roads, whether located inside or outside the "Road Easements" (the "Road Improvements"). The Declarant shall construct and the Association shall permanently operate, maintain, repair and replace the Road Improvements within the Road Easements, and may in the future construct, install operate, maintain, repair or replace other Road Improvements within the Road Easements for any purpose consistent with this Declaration. Road Improvements which may be constructed by Declarant and/or the Association within the Road Easements and the Commons Areas adjacent thereto, may include, but shall not be limited to, security and entry gates, security gate house, development and sales office, fences, signage, speed bumps or dips, drainage, structures, guard rails and the like. There is further reserved to Declarant the right to increase the width of any Road Easement shown on the Final Subdivision Plat(s) including any Primary Access or Secondary Access provided that such widening does not encroach into any Development Envelope. With respect to all Homesteads, no increased road width shall exceed forty (40') feet on either side of the centerline thereof as such centerlines are shown on the Final Subdivision Plat(s) or as built if the as-built location shall vary from the Final Subdivision Plat(s). In the event Declarant shall determine to increase the width

of any Road, Declarant shall have the right, but not the obligation, to amend the Final Subdivision Plat(s) for that purpose without requirement to obtain the consent of any Owner, Mortgagee or the Association. The width of any Road Easement may be increased for Road purposes or to accommodate a security gatehouse as long as the width of such enlargement does not exceed the maximum widths set forth herein.

8.10 Easements for Water System. Easements are reserved by the Declarant and the Association under, over, along and across all Common Areas, Easements, Association Property, and Property Conveyed by Declarant whether or not shown on the Final Subdivision Plat(s) for purposes of installing, constructing, maintaining, repairing and operating the primary water system for The Reserve, including but not limited to, pumps, pipes, lines, fire hydrants and the like. It shall be the responsibility of each Owner to install, in accordance with specifications approved by the SARC, water service lines from the primary water system to and within the Development Envelope on each Homestead. All water service lines installed by an Owner to and within the Development Envelope of a Homestead, together with easements fifteen (15) feet on either side of the centerline of such water service lines, shall become the property of the Association, and such water service lines shall be operated, maintained, repaired or replaced as part of the primary water system. The cost of the maintenance, repair or replacement of individual water service lines shall be charged to each Owner of such Homestead as a special cost center.

8.11 Ownership of Easements. Any easements or rights reserved by Declarant in Sections 8.1 through 8.11 above shall remain vested in Declarant until such time as Declarant has executed and delivered an instrument in writing transferring the same to the Association or a Subsidiary, or any successor or assign of Declarant. Where the instrument recites it is a complete transfer of a particular easement or right, Declarant shall be relieved from all continuing responsibilities therefore. With respect to any easements created within The Reserve by this Declaration and with respect to any easements hereafter granted by Declarant or the Association that benefit the Owner of any Homestead such as roads, utilities, drainage ditches and trails, no such easements may be vacated, extinguished, impaired or limited (other than temporary limitations for maintenance, repair or replacement), except upon the written consent of the Owner of such Homestead and any Eligible Mortgage Holder thereon and notwithstanding the provisions of Section 10.2 below, no amendment to this Declaration may repeal or change this requirement except upon the written consent of all Owners and all Eligible Mortgage Holders.

8.12 Performance Standards Indemnification. Notwithstanding the provisions of Section 3.4 of this Declaration, all activities undertaken by Declarant, the Association or their assigns within or in connection with the easements and reservations described in this Section 8 shall be performed in a good and workmanlike manner and as expeditiously as possible, and shall at all times be in complete compliance with all applicable construction, health, safety and other laws, regulations and codes. Natural vegetation shall be disturbed as little as possible, and any disturbed areas shall be re-graded and re-vegetated to the extent reasonably necessary to restore the same to an aesthetic and

stabilized condition. All such activities shall be performed at the sole cost and expense of Declarant, the Association, or their assigns, and all areas subject to said easements shall be kept free from mechanics' or material men's liens of any kind and which may rise from the aforementioned activities. Nothing herein shall limit the ability of the Association as provided in this Declaration to assess Owners for costs of activities undertaken in connection with the easements and reservations described in this Section 8. Declarant, until such time as its interest is conveyed, and the Association, and their respective assigns shall indemnify, defend (including reasonable attorney's fees and costs), save, and hold harmless any Owners and such Owner's partners and their respective affiliated companies, employees and agents, from and against any and all losses, liabilities, damages, expenses, claims or demands for personal injury, death, property damage, or any other form of loss or damage suffered by any person or persons (collectively "Liabilities") arising from the exercise by Declarant or the Association, as the case may be, or their respective assigns of any of the easement rights created in this Section 8, and for claims covered by insurance, to the extent of such insurance coverage, this indemnification shall apply even if any of such Liabilities arise from or are attributable to the concurrent negligence of any Owner. The insurance coverage required under Section 6.1(b) shall include Broad Form Contractual Liability specifically in support of, but not limited to, the indemnity contained herein. The liability of the Association and Declarant under this indemnification shall be several and separate it being understood that Declarant shall not indemnify Owners for activities of the Association and the Association shall not indemnify Owners for activities of Declarant. Further, neither the Association nor Declarant shall be liable under this indemnification for the exercise of such easements or reservations by third parties such as police, fire protection, utility, or other approved uses of the easements. Declarant's obligations under this provision shall end once its interest in the property is conveyed as otherwise set forth herein.

8.13 Utility Access Easement. The Declarant, by separate grant of easement, shall grant to the Association, and the Association shall own, a utility access easement one foot wide on each side of every Easement, and on each side of every Common Area shown on the Final Subdivision Plat (s). The purpose for the utility access easement shall be to assure compliance with all of the requirements of this Declaration before water or other utility connection can be obtained for the construction of a residence or other permitted structures on any Homestead in The Reserve. No water connections or other utility hook-ups shall be allowed to cross the utility access easement until and unless the Association grants a specific, recorded easement to the Owner of the Homestead across the utility access easement for those purposes after compliance with the requirements of the Declaration. If some requirements cannot be met until during or after construction, the easement across the utility access easement may be made conditional upon the completion of all such requirements during and after construction.

8.14 Rights to Establish Conservation Easements. The Declarant hereby reserves to itself and to the Association the right to convey Conservation Easements on all of the common area or easements in The Reserve by conveying a Conservation Easement to an eligible entity under applicable Federal and Idaho law for the establishment of such

easements. Declarant intends to create contiguous, meaningful Conservation Easements on contiguous parcels and within The Reserve, but the granting of Conservation Easements hereunder shall not be required in each or every instance to be in such an order or pattern as to require a common boundary with a contiguous parcel. The location and extent of the Conservation Easements shall be determined in the sole discretion of the Declarant and/or the Association. The right to grant Conservation Easements reserved herein is permissive and not mandatory. Nothing in this Declaration shall require the Declarant and/or the Association to establish a Conservation Easement, but either the Declarant or the Association, in its sole discretion, shall have the right to do so if it considers such action to be in the best interests of all the Owners of land in The Reserve.

9. OPERATION OF THE RESERVE

9.1 Water Distribution System. Phase I, II and III (one, two and three) of The Reserve at Bear Lake have final plat approval from Bear Lake County with each lot owner having the right, subject to obtaining a permit from the Idaho Department of Water Resources, to drill their own well for culinary water. It is planned that there will be a central culinary water system to provide culinary water in the future. Every subsequent phase of The Reserve at Bear Lake after phase III will be required to hook up to the central culinary water system. This water distribution system will be called Sam's Hollow Water Company. Sam's Hollow Water Company ("Sam's Hollow") is an Idaho nonprofit corporation organized to develop, own and operate water rights, pipe lines, tanks, and equipment to provide water for domestic and irrigation purposes to its Members. The Members of Sam's Hollow are the lot owners in the project who have the right to receive water service and are charged for the operation and maintenance costs of the systems once they are completed and installed. Each owner of any lot, by acceptance of a deed or conveyance thereof, whether or not it shall be so expressed in any such deed or instrument of conveyance, is deemed to accept membership in Sam's Hollow Water Company when that membership becomes available. If a culinary water system is not provided to each lot owner in phases I, II and III before they would like to build, they may drill their own well and provide for their own culinary water. Each lot in phases I, II or III has the option to obtain a well to provide for any culinary or irrigation water that the state will approve them for. Each owner of any lot, by acceptance of a deed or conveyance thereof, whether or not it shall be so expressed in any such deed or instrument of conveyance, is deemed to accept the fact that Sam's Hollow may, pending IDEQ approval, become either a Public Utility, or be deeded to "The Master Resort Association of the Reserve at Bear Lake" at any time before or after their acceptance of a deed. When a central culinary water system is built, the Declarant is responsible for the installation of the water system.

9.2 . Water Connection Fees. For each user connection in The Reserve, certain connection fees and development or impact fees must be paid in order for the Homestead to be connected to the water system. Each Owner shall be responsible for the payment of the connection fees. In addition to applying to the County for building permits for the construction of buildings and other improvements on each Homestead, each Owner shall also be required to apply to Sam's Hollow for a water connection.

9.3 Payment for Water Usage. Payment for water usage from the water system in The Reserve shall be made by each Owner to the Sam's Hollow Water Company, and

shall be billed by Sam's Hollow to the Owners in accordance with the billing policies of Sam's Hollow. The Association shall not be involved in the operation of the water system, or the billing and collection of money for water usage, unless the system is deeded to the Association from Sam's Hollow at some future date.

9.4 Limitation on Water Usage. Each owner of any lot, by acceptance of a deed or conveyance thereof, whether or not it shall be so expressed in any such deed or instrument of conveyance, is deemed to accept the fact that the water permits issued to Sam's Hollow by IDWR contain conditions set forth by Idaho Department of Water Resources (IDWR), that each homestead in The Reserve is limited to a maximum of 1/10 of one acre (4,356 sq. ft.) of outside irrigation. These water permits also contain conditions that could, in extreme drought conditions, require there to be no outside irrigation. These restrictions during drought conditions, however, shall not limit the right of Homestead Owners to use culinary water to their homestead or for the right to obtain water connections to their homestead.

9.5 Individual Wells. Subject to the provisions bereof, and to all applicable provisions of Idaho law concerning the drilling of private water wells, and subject to the availability of well water, the Declarant, the Association or any Owner may drill and operate private water wells. The Owner of a Homestead shall be allowed to drill and operate no more than one (1) private water well on a Homestead for any on-site pond purpose permitted by law, if approved by the IDWR. Any Owner desiring to drill an individual well shall be responsible for obtaining all water rights, state and local permits and approvals for such wells and shall also be responsible for the payment of all costs associated with the drilling, development, operation, repair, maintenance and replacement of such a well. Declarant makes no representation or warranty that water for such wells is available on any particular Homestead or, if available, the depth at which it may be found or the quality or quantity of water that may be available. No drilling or operation of any well shall occur until the location, specifications, design and proposed use shall have been approved by the SARC and IDWR. In connection with any approval, SARC shall have the right to prohibit clustering of wells and to establish such other restrictions or prohibitions on the drilling or operation of wells as shall be necessary to prevent injury to any other water sources. Phase I, II and III (one, two and three) of The Reserve at Bear Lake have final plat approval from Bear Lake County with each lot owner having the right, subject to obtaining a permit from the Idaho Department of Water Resources, to drill their own well for culinary water. It is planned that there will be a central culinary water system to provide culinary water in the future. Every subsequent phase of The Reserve at Bear Lake after phase III will be required to hook up to the central culinary water system. This section in no way releases any lot owner in any phase subsequent to phase III (three) from the requirement to hook up to the central culinary water system.

9.6 No Impairment of Water Rights by Owners. Notwithstanding that Owners of Homesteads are entitled to develop individual wells or thus obtain individual water rights appurtenant thereto, in no event shall Owners be entitled to have any standing, by virtue of ownership of said individual wells and water rights appurtenant thereto, to object to any application for a well permit, any water rights applications, including but not limited to, a change of water right, approval of any augmentation plans or new water right that may be filed by Declarant or the Association or their assigns. Each Owner hereby irrevocably constitutes and appoints Declarant or the Association as its attorney-in-fact to file, join in or

object or to not file, join in or object as Declarant or the Association deems appropriate, in its sole discretion, to any water rights application affecting any The Reserve lands.

10. TERM, AMENDMENT AND TERMINATION CONVENANTS, 10.1 Terms. The term of this Declaration shall be perpetual.

10.2 Amendments. Until the sale of seventy-five percent (75%) of the Homesteads in The Reserve, Declarant shall have the absolute right, acting alone, to amend any provision of this Declaration except as limited by Sections 3.14, 6.2 and 8.12. provided that such amendment shall not adversely affect marketability of title to any Homestead or materially diminish the value of any Homestead. In cases where any amendment does adversely affect marketability of title or materially diminish the value of a Homestead, such amendment may nevertheless be adopted by Declarant as allowed in the sentence immediately preceding so long as at the time such amendment becomes effective: (i) Declarant shall be record owner of the Homestead so affected and the affected Homestead is not the subject of any contract for sale or (ii) the written consent of the Owner (if other than Declarant) or contract vendee has been obtained. After the sale of seventy-five (75%) of the Homesteads in the Reserve has occurred, or earlier written relinquishment by Declarant, if any, this Declaration may, except as limited by Sections 3.14, 6.2 and 8.12, be amended by a vote of seventy-five percent (75%) of the Owners of all Homesteads; provided that such amendment shall not adversely affect marketability of title or materially diminish the value of a Homestead. Except as provided in Sections 3.14 and 8.12, consent of Mortgagees shall not be required in order to amend this Declaration. By instrument signed by Declarant and duly recorded in the real estate records of Bear Lake County, Idaho, Declarant at any time may relinquish its right to amend this Declaration or make interpretations thereto as permitted in Section 12, below. This Declaration shall be amended at a meeting called for that purpose and within six (6) months after the date of such meeting there shall be recorded in the real estate records of Bear Lake County, Idaho, an instrument evidencing such amendment. Any instrument amending this Declaration shall be duly executed by the Declarant or President and Secretary of the Association, as the case may be. Notwithstanding the preceding, no amendment shall be permitted that is inconsistent with any of the rights granted, retained or reserved to Declarant hereunder or which attempts to enlarge or expand any obligation of Declarant hereunder unless such amendment is consented to in writing by Declarant. Further, where any amendment is not considered by Declarant, in its reasonable judgment, to be a material change to any provision of this Declaration, such as the correction of a technical, drafting or typographical error, correction of some obvious omission, resolution of any conflict with applicable laws, the Development Agreement or County requirements, clarification of any ambiguous statement or the like, such amendment may be made at any time by Declarant, without requirement to obtain the consent of any Owner or Eligible Mortgage Holder.

10.3 Rules against Perpetuities. If any of the terms, covenants, conditions, easements, restrictions, uses, limitations or obligations created by this Declaration shall be unlawful or void for violation of (i) the rule against perpetuities or some analogous

statutory provision, (ii) the rule restricting restraints on alienation, or (iii) any other statutory or common law rules imposing like or similar time limits, such provision shall continue only for the period of the lives in being at the date of the recording of this Declaration plus twenty-one (21) years.

10.4 Termination. This Declaration may be terminated only if all the Owners and Eligible Mortgage Holders agree to such termination by an executed acknowledged instrument duly recorded in the real estate records of Bear Lake County, Idaho. This Declaration shall also terminate in the event of the taking of any property of The Reserve by condemnation or eminent domain.

10.5 Disbursement of Proceeds. Upon the termination of this Declaration all property owned by the Association shall be sold by the Association either in whole or in parcels as the Board may deem appropriate. The funds shall be disbursed without contribution from one Owner to another by the Association for the following purposes and in the following order:

- (a) payment of all customary expenses of the sale;
- (b) payment of all applicable taxes and special Assessment Liens in favor of any governmental authority;
- (c) payment of the balance of any liens encumbering Association Property;
- (d) payment of any unpaid costs, expenses and fees incurred by the Association; and
- (e) payment of any balance to the Owners in the same proportion that they pay Association Assessments; provided, however, there shall be deducted from any share due an Owner any delinquent and unpaid Association Assessments.

11. CONDEMNATION.

11.1 Condemnation of Association Property. If any Association Property is taken or condemned by any authority having the power of eminent domain, all compensation and damages on account of the taking of the Association Property, exclusive of compensation for consequential damages to affected Homesteads, shall be payable to the Association and such proceeds shall be used promptly by the Association to the extent necessary for repair and reconstruction of remaining Association Property in as substantial compliance to the original plan of development as possible. If there is an award in excess of the amount necessary to substantially repair or reconstruct such remaining Association Property, the Board, in its sole discretion, shall determine if the excess is to be refunded to the Members or retained by the Association for such uses as it deems appropriate.

12. MISCELLANEOUS

12.1 Interpretation of the Covenants. Excepting for judicial construction, Declarant shall have the exclusive right to construe and interpret the provisions of this Declaration until the sale of seventy-five percent (75%) of the Homesteads in The Reserve. Thereafter, the exclusive right to construe and interpret this Declaration shall

rest with the Association acting by and through its Board. In the absence of any adjudication to the contrary by a court of competent jurisdiction, the construction or interpretation of the provisions hereof by Declarant and thereafter the Association shall be final, conclusive and binding as to all persons and property benefited or bound by this Declaration and provisions hereof. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development, operation and maintenance of The Reserve.

12.2 Claims Regarding Declarant. The Association and all Owners shall have a period of two (2) years from the date Property Conveyed by Declarant is actually granted, assigned, or conveyed to the Association within which to assert, by legal action or otherwise, any claim, demand, cause of action or lawsuit against Declarant with regard to said Property Conveyed by Declarant however arising and for whatever cause or reason whatsoever. Nothing herein shall be construed to limit, impair, diminish or bar any claim by the Association, Owners, Mortgagees, Declarant or any other person with standing to bring such claim to ever assert by legal proceedings or otherwise any claim demand, cause of action or lawsuit against any engineer, architect, contractor, subcontractor, supplier, material man or other person involved in the design, installation, manufacture, assembly, construction, operation, maintenance, repair or replacement of any Property Conveyed by Declarant.

12.3 Sales Activity. Declarant may conduct sales activity within The Reserve, including, but not limited to, the showing of any unit, to include, homesteads, lots and townhomes, by Declarant or any sales agents, maintaining a sales or management office or conducting promotional or marketing events or activities. Declarant may also maintain signs advertising The Reserve.

12.4 Conflict with Plats. In the event of any conflict or inconsistency between the provisions of this Declaration and the Final Subdivision Plat(s) affecting The Reserve, including the plat notes thereon, the provisions of said plats or plat notes, as the case may be, shall govern and control and this Declaration shall automatically be amended, but only to the extent necessary to conform the conflicting provisions hereof with the provisions of said plats, including any plat notes.

12.5 Rights of Eligible Mortgage Holders. Any Eligible Mortgage Holder shall be entitled to:

- (a) upon request, inspect the books and records of the Association during normal business hours;
- (b) receive written notice of meetings of the Association where the consent of any Eligible Mortgage Holder is required;
- (c) upon request, obtain copies of Association financial statements;
- (d) receive written notice of condemnation proceedings affecting any Association Property;
- (e) receive written notice of the lapse of any insurance that the Association is required to maintain under this Declaration; and
- (f) where the Owner of any Homestead shall be deemed delinquent in the payment of

any Assessment, any Eligible Mortgage Holder of said Homestead shall be given written notice of such delinquency by the Association, provided the Eligible Mortgage Holder shall have notified the Association of its lien.

12.6 Provisions Incorporated in Deeds. Each provision contained in this Declaration, and any amendment hereto as set forth above, shall be deemed incorporated in each deed or other instrument by which any right, title or interest in any Homestead is granted, devised or conveyed, whether or not set forth or referred to in such deed or other instrument.

12.7 Number and Gender. Unless the context shall otherwise provide, a singular number shall include the plural, a plural number shall include the singular, and the use of any gender shall include all genders.

12.8 No Dedication. Unless expressly provided, nothing contained in this Declaration shall be deemed to be a gift or dedication of all or any part of The Reserve to the public or for any public use.

12.9 Notices. Any notice permitted or required to be delivered as provided in this Declaration shall be in writing and may be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered three (3) days after a copy of the same has been posted in the United States mail, postage prepaid for first class mail and addressed to the receiving party at the address last given by such party to the Association. Any notice to the Association shall be sent to such address as it may from time to time designate in writing to each Owner.

12.10 Idaho Law. The interpretation, enforcement or any other matters relative to this Declaration shall be construed and determined in accordance with the laws of the State of Idaho.

12.11 Disclaimer. No representations or warranties of any kind, express or implied, have been given or made by Declarant, or its agents or employees, in connection with The Reserve, or any portion thereof, or any improvement thereon, its physical condition, zoning, compliance with applicable laws, fitness or intended use or operation, cost of maintenance or taxes except as expressly set forth in this Declaration or except as set forth in any Disclosure Statement required to be given under applicable rules of the Idaho Real Estate Commission.

12.12 Designation of Successor. For purposes of this Declaration and the easements, dedications, rights, privileges and reservations set forth herein to a successor and assign of Declarant shall be deemed a successor and assign only as specifically designated by Declarant by instrument recorded in the real estate records of Bear Lake County, Idaho and, only with respect to the particular rights or interests specifically designated therein.

12.13 Severability. Any determination by any court of competent jurisdiction that any provision of this Declaration is invalid or unenforceable shall not affect the validity or enforceability of any of the other provisions hereof. Where any provision of this Declaration is alleged to be or declared by a court of competent jurisdiction to be unconscionable, Declarant shall have the right by amendment to this Declaration to replace such provision with a new provision, as similar thereto as practicable, but which in Declarant's reasonable opinion would be considered not to be unconscionable.

12.14 Run with the Land. Declarant, for itself, its successors and assigns, hereby declares that all of The Reserve shall be held, used and occupied subject to the provisions of this Declaration and to the covenants, conditions and restrictions contained herein, and that the provisions hereof shall run with the land and be binding upon all persons who hereafter become the Owner of any interest in The Reserve.

12.15 Restatement of Declaration. To assure uniformity and ease in determining what provisions of this instrument apply, Declarant shall have the right, from time to time, to incorporate cumulatively into one document all prior amendments and to publish and adopt a restatement of this Declaration (the "Second, Third, Fourth Declaration" as the case may be).

12.16 Recording References. All references in this Declaration to maps, plats, agreements, instruments or other documents of record shall mean and refer recordings with the Office of the Recorder of Bear Lake County, Idaho.

12.17 Property Conveyed to the Association by Declarant. The Association shall be obligated to and shall accept title to or interests in any property which may be sold, assigned, granted or conveyed to the Association by Declarant. All property to be sold, assigned, granted or conveyed by Declarant to the Association will be an outright conveyance, sale, assignment, grant or conveyance of all the interest of Declarant therein, subject only to such reservations, restrictions and conditions as Declarant may reasonably provide and none of such property, to the extent owned by Declarant, will be leased to the Association.

IN WITNESS WHEREOF, the Declarant has executed this instrument the day and year first written.

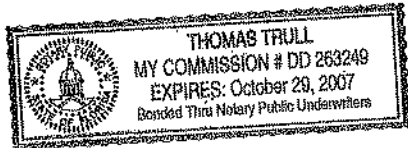


Douglas A. Johnson
(Manager, Bear Lake Group, L.L.C.)

STATE OF FLORIDA

County of Palm Beach

On the 16th day of March 2007, personally
appeared before me Douglas A. Johnson who being by me duly sworn
did say for himself that he is Douglas A. Johnson, manager of Bear Lake Reserve,
L.L.C.




Notary Public

My commission Expires 10-29-07

Residing, at: 177 US Hwy One
Tequesta, FL 33469