

does not maintain his or her unimproved Lot to the appropriate standards, the Association shall have the right to perform such maintenance on the Owner's behalf and the cost of such maintenance shall be assessed to the Owner as a Specific Assessment.

PART THREE: COMMUNITY GOVERNANCE AND ADMINISTRATION

ARTICLE VI – THE ASSOCIATION AND ITS MEMBERS

6.1 Function of Association. The Association shall be the entity responsible for management, maintenance, operation and control of the Roadway System and Common Area. The Association also shall be the primary entity responsible for enforcement of the Governing Documents. The Association shall perform its functions in accordance with the Governing Documents and the laws of the State of Idaho.

6.2 Membership. Every Owner of a Lot shall be a Member of the Association. There shall be only one membership per Lot. If a Lot is owned by more than one Person, all co-Owners shall share the privileges of such membership, subject to reasonable Board regulation and the restrictions on voting set forth in Section 6.3(a) and the Bylaws, and all such co-Owners shall be jointly and severally obligated to perform the responsibilities of Owners. The membership rights of an Owner which is not a natural person may be exercised by any officer, director, partner, or trustee, or by the individual designated from time to time by the Owner in a written instrument provided to the Secretary of the Association except where such privileges may be restricted by the Master Rules and Regulations or by the Association.

6.3 Voting. The Association shall have one class of membership. Members shall have one equal vote for each Lot in which they hold the interest required for membership under Section 6.2. All votes shall be cast as provided in Section 6.3(a).

(a) **Exercise of Voting Rights.** The vote for each Lot owned by a Member shall be exercised by the Owner of the Lot. In any situation where there is more than one Owner of such Lot, the vote for such Lot shall be exercised as the co-Owners determine among themselves and advise the Secretary of the Association in writing prior to the vote being taken. Absent such advice, the Lot's vote shall be suspended if more than one Person seeks to exercise it in a conflicting manner.

(b) **Commencement of Voting Rights.** Voting rights as to each Lot shall vest upon the commencement of assessment obligations for such Lot.

ARTICLE VII – ASSOCIATION POWERS AND RESPONSIBILITIES

7.1 Acceptance and Control of Association Property.

(a) The Association, through action of its Board, may acquire, hold, and dispose of tangible and intangible personal property.

(b) The Founder and its designees may convey real or personal property to the Association.

7.2 Maintenance of Common Area.

(a) The Association shall maintain, in accordance with the Community-Wide Standard, the Common Area and easements, along with such portions of additional property included within the Common Area as may be dictated by this Declaration, any Supplemental Declaration, any Covenant to Share Costs, or any contract or agreement for maintenance thereof entered into by the Association.

(b) The Association may maintain other property that it does not own if the Board determines that such maintenance is necessary or desirable to maintain the Community-Wide Standard. The Association shall

not be liable for any damage or injury occurring on or arising out of the condition of, property which it does not own except to the extent that it has been negligent in the performance of its maintenance responsibilities.

(c) The Association shall own and maintain the facilities and equipment within the Common Area, if any, in continuous operation, except for any periods necessary, as determined in the sole discretion of the Board, to perform required maintenance or repairs, unless one hundred percent (100%) of the Members in the Association agree in writing to discontinue such operation.

(d) Notwithstanding the foregoing, the Common Area shall not be reduced by amendment of this Declaration or any other means except with the prior written approval of the Founder as long as the Founder owns a Lot or Lots in the Properties.

(e) The costs associated with maintenance, repair and replacement of the Common Area and any improvements thereon, shall be a Common Expense; provided, the Association may seek reimbursement from the Owner(s) of, or other Person responsible for, certain portions of the Common Area pursuant to this Declaration, the Covenant to Share Costs, other recorded covenants, or agreements with the owner(s) thereof.

7.4 Insurance

(a) Required Coverages. The Association, acting through its Board or its duly authorized agent, shall obtain and continue in effect the following types of insurance, if reasonably available, or if not reasonably available, the most nearly equivalent coverages as are reasonably available:

(i) Blanket property insurance covering "risks of direct physical loss" on a "special form" basis (or comparable coverage by whatever name denominated) for all insurable improvements within the Common Area to the extent that the Association has assumed responsibility in the event of a casualty, regardless of ownership. If such coverage is not generally available at reasonable cost, then "broad form" coverage may be substituted. All property insurance policies obtained by the Association shall have policy limits sufficient to cover the full replacement costs of the insured improvements under current building ordinance and codes;

(ii) Commercial general liability insurance on the Common Area, insuring the Association and its Members for damage or injury caused by the negligence of the Association or any of its Members, employees, agents, or contractors while acting on its behalf. If generally available at reasonable cost, such coverage (including primary and any umbrella coverage) shall have a limit of at least one-million dollars (\$1,000,000.00) per occurrence with respect to bodily injury, personal injury, and property damage, provided, should additional coverage and higher limits be available at reasonable cost which a reasonably prudent person would obtain, the Association shall obtain such additional coverages or limits. If the policy does not contain "severability of interest" in its terms, the Association shall acquire an endorsement to preclude the insurer's denial of a Lot Owner's claim because of negligent acts of the Association or of other Lot Owners;

(iii) Workers' compensation insurance and employers' liability insurance, if and to the extent required by law;

(iv) Directors' and officers' liability coverage with policy limits deemed prudent by the Board;

(v) Commercial crime insurance, including fidelity insurance covering all Persons responsible for handling Association funds in an amount determined in the Board's best business judgment but not less than an amount equal to one-fourth (1/4) of the annual Base Assessments on all Lots plus reserves on hand. Fidelity insurance policies shall contain a waiver of all defenses based upon the exclusion of Person serving without compensation; and

(vi) Such additional insurance as the Board, in its best business judgment, determines advisable.

Premiums for all insurance on the Common Area shall be assessed by the Board as a Common Expense.

(b) **Policy Requirements.** The Association shall arrange for an annual review of the sufficiency of its insurance coverage by one or more qualified Persons, at least one of whom must be familiar with insurable replacement costs in Teton County, Idaho. All Association policies shall provide for a certificate of insurance to be furnished to the Association and, upon request, to each Member insured.

The policies may contain a reasonable deductible, and the amount thereof shall not be subtracted from the face amount of the policy in determining whether the policy limits satisfy the requirements of Section 7.4(a). In the event of an insured loss, the deductible shall be treated as a Common Expense in the same manner as the premiums for the applicable insurance coverage. However, if the Board reasonably determines, after notice and an opportunity to be heard in accordance with the Bylaws, that the loss is the result of the negligence or willful misconduct of one or more Owners, their guests, invitees, or lessees, then the Board may assess the full amount of such deductible against such Owner(s) and their Lots as a Specific Assessment.

All insurance coverage obtained by the Board shall:

- (i) Be written with a company authorized to do business in the State of Idaho;
- (ii) Be written in the name of the Association as trustee for the benefited parties.
- (iii) Not be brought into contribution with insurance purchased by Owners, occupants, or their Mortgagees individually;
- (iv) Contain an inflation guard endorsement;
- (v) Include an agreed amount endorsement if the policy contains a co-insurance clause;
- (vi) Provide a waiver of subrogation under the policy against any Owner or household member of an Owner;
- (vii) Include an endorsement precluding cancellation, invalidation, suspension, or non-renewal by the insurer on account of any one or more individual Owners, or on account of any curable defect or violation without prior written demand to the Association to cure the defect or violation and allowance of a reasonable time to cure;
- (viii) Include an endorsement precluding cancellation, invalidation, or condition to recovery under the policy on account of any act or omission of any one or more individual Owners, unless such Owner is acting within the scope of its authority on behalf of the Association;
- (ix) Provide that the policy will be primary, even if a Lot Owner has other insurance that covers the same loss.

In addition, the Board shall use reasonable efforts to secure insurance policies which list the Owners as additional insureds and provide:

- (i) A waiver of subrogation as to any claims against the Association's Board, officers, employees, and its manager, its attorneys, the Owners and their tenants, servants, agents, and guests;
- (ii) A waiver of the insurer's rights to repair and reconstruct instead of paying cash;

(iii) An endorsement excluding Owners' individual policies from consideration under any "other insurance" clause;

(iv) An endorsement requiring at least thirty (30) days prior written notice to the Association of any cancellation, substantial modification, or non-renewal; and

(v) A provision vesting in the Board exclusive authority to adjust losses; provided, however, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any related to the loss.

(c) **Restoring Damaged Improvements.** In the event of damage to or destruction of property that the Association is obligated to insure, the Board or its duly authorized agent shall file and adjust all insurance claims and obtain reliable and detailed estimates of the cost of repairing or restoring the property to substantially the condition in which it existed prior to the damage, allowing for changes or improvements necessitated by changes in applicable building codes.

Damaged improvements on the property shall be repaired or reconstructed unless at least seventy-five percent (75%) of Members decide within sixty (60) days after the loss not to repair or reconstruct. If either the insurance proceeds or estimates of the loss, or both, are not available to the Association within such sixty (60) day period, then the period shall be extended until such funds or information are available. However, such extension shall not exceed sixty (60) additional days. No Mortgagee shall have the right to participate in the determination of whether the damage or destruction to the Common Area shall be repaired or reconstructed.

If a decision is made not to restore the damaged improvements, and no alternative improvements are authorized, the affected property shall be cleared of all debris and ruins and thereafter shall be maintained by the Association in a neat and attractive, landscaped condition consistent with the Community-Wide Standard.

Any insurance proceeds remaining after paying the costs of repair or reconstruction, or after such settlement as is necessary and appropriate, shall be retained by the Association for the benefit of its Members or the Owners of Lots, as appropriate, and placed in a capital improvements account.

If insurance proceeds are insufficient to cover the costs of repair or reconstruction, the Board may, without a vote of the Members, levy Special Assessments to cover the shortfall against those Owners responsible for the premiums for the applicable insurance coverage under Section 7.4(a).

7.5 Compliance and Enforcement. Every Owner and occupant of a Lot shall comply with the Governing Documents. The Board may impose sanctions for violation of the Governing Documents after notice and a hearing in accordance with the procedures set forth in the Bylaws. Such sanctions may include, without limitation:

(a) Imposing reasonable monetary fines (which shall not, except in the case of nonpayment of assessments, constitute a lien upon the violator's Lot). In the event that any occupant, guest or invitee of a Lot violates the Governing Documents and a fine is imposed, the fine shall first be assessed against the violator; provided however, if the fine is not paid by the violator within the time period set by the Board, the Owner shall pay the fine upon notice from the Board;

(b) Suspending an Owner's right to vote;

(c) Suspending any Person's right to use any Common Area within the Properties; provided, however, nothing herein shall authorize the Board to limit ingress or egress to or from a Lot;

(d) Suspending any services provided by the Association to an Owner or the Owner's Lot if the Owner is more than thirty (30) days delinquent in paying any assessment or other charge owed to the Association;

(e) Exercising self-help or taking action to abate any violation of the Governing Documents in a non-emergency situation;

(f) Requiring an Owner, as its own expense, to remove any structure or improvements on such Owner's Lot in violation of Article IV and to restore the Lot to its previous condition and, upon failure of the Owner to do so, the Board or its designee shall have the right to enter the property, remove the violation and restore the property to substantially the same condition as previously existed and any such action shall not be deemed a trespass;

(g) Without liability to any Person, precluding any contractor, subcontractor, agent, employee, or other invitee of an Owner who fails to comply with the terms and provisions of Article IV from continuing or performing any further activities in the Properties; and

(h) Levying Specific Assessments to cover costs incurred by the Association to bring a Lot into compliance with Governing Documents.

In addition, the Board may take the following enforcement procedures to ensure compliance with the Governing Documents without the necessity of compliance with the procedures set forth in the Bylaws:

(a) Exercising self-help in any emergency situation (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules and regulations); and

(b) Bringing suit at law or in equity to enjoin any violation or to recover monetary damages to both.

In addition to any other enforcement rights, if an Owner fails to properly perform his or her maintenance responsibility, the Association may record a notice of violation in the Public Records or perform such maintenance responsibilities and assess all costs incurred by the Association against the Lot and the Owner as a Specific Assessment. Except in an emergency situation, the Association shall provide the Owner reasonable notice and an opportunity to cure the problem prior to taking such enforcement action.

All remedies set forth in the Governing Document shall be cumulative of any remedies available at law or in equity. In any action to enforce the Governing Documents, if the Association prevails, it shall be entitled to recover all costs, including, without limitation, attorneys fees and court costs, reasonably incurred in such action.

The Association shall not be obligated to take any action if the Board reasonably determines that the Association's position is not strong enough to justify taking such action. Such a decision shall not be construed a waiver of the right of the Association to enforce such provision at a later time under other circumstances or estop the Association from enforcing any other covenant, restriction, or rule.

The Association, by contract or other agreement, may enforce applicable city and county ordinances, if applicable, and permit Teton County, Idaho to enforce ordinances within the Properties for the benefit of the Association and its Members.

7.6 Implied Rights; Board Authority. The Association may exercise any right or privilege given to it expressly by the Governing Documents, or reasonably implied from or reasonably necessary to effectuate any such right or privilege. Except as otherwise specifically provided in the Governing Documents, or by law, all rights and powers of the Association may be exercised by the Board without a vote of the membership.

7.7 Indemnification of Officers, Directors and Others. The Association shall indemnify every officer, director, and committee member against all damages and expenses, including counsel fees, reasonably incurred in connection with any action, suit, or other proceeding (including settlement or any suit or proceeding, if approved by the then Board) to which he or she may be a party by reason of being or having been an officer, director, or committee member, except that such obligation to indemnify shall be limited to those actions for which liability is limited under Idaho law and the Bylaws.

7.8 Enhancement of Safety. The Association may provide for a security patrol within the Properties, and the Association may, but shall not be obligated to, maintain, or support certain other activities within the Properties designed to enhance the safety of the Properties. Neither the Association nor the Founder shall in any way be considered insurers or guarantors of security within the Properties, nor shall either be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken. No representation or warranty is made that any patrol, systems, or measures, including any mechanism or system for limiting access to the Properties, cannot be compromised, or circumvented, nor that any such patrol, systems, or security measures undertaken will in all cases prevent loss or provide the detection or protection for which the patrol or system is designed or intended. Each Owner acknowledges, understands and covenants to inform its tenants and all occupants of its Lot that the Association, its Board and committees, and the Founder are not insurers of safety and that each Person using the Properties assumes all risks of person injury and loss or damage to property, including Lots and the contents of Lots, resulting from acts of third parties.

7.9 Provision of Services. The Association shall be authorized but not obligated to enter into and terminate, in the Board's discretion, contracts or agreements with other entities, including Founder, to provide services to and facilities for the Members of the Association and their guests, lessees and invitees and to charge use and consumption fees for such services and facilities. By way of example, some services which might be offered include property management services, landscape maintenance, pest control, boarding of horses, and similar services.

7.10 Maintenance of Association Standing. The Association shall be obligated to maintain itself in good standing with the Idaho Secretary of State and any other governmental entities having jurisdiction over the activities or existence of the Association.

ARTICLE VII – ASSOCIATION FINANCES

8.1 Budgeting and Allocating Common Expenses. At least sixty (60) days before the beginning of each fiscal year, the Board shall prepare a budget of the estimated Common Expenses, including any and all expenses associated with the enhancement of safety and the provision of services as set forth in Sections 7.8 and 7.9, for the coming year, including any contributions to be made to a reserve fund pursuant to Section 8.2. The budget shall also reflect the sources and estimated amounts of funds to cover such expenses, which may include any surplus to be applied from prior years, any income expected from sources other than assessments levied against the Lots, and the amount to be generated through the levy of Base Assessments, Special Assessments and Specific Assessments against each.

The Association is hereby authorized to levy Base Assessments against all Lots subject to assessment under Section 8.6 to fund the Common Expenses. In determining the Base Assessment rate per Lot, the Board may consider any assessment income expected to be generated from any additional Lots reasonably anticipated becoming subject to assessment during the fiscal year.

The Founder may, but shall not be obligated to, reduce the Base Assessment for any fiscal year by payment of a subsidy (in addition to any amounts paid by Founder under Section 8.7(b)) which may be either a contribution, an advance against future assessments due from the Founder, or a loan, in the Founder's discretion. Any such subsidy shall be disclosed as a line item in the income portion of the budget. The payment of such subsidy in any year shall not obligate the Founder to continue payment of such subsidy in future years, unless otherwise provided in a written agreement between the Association and the Founder.

The Board shall send a copy of the final budget, together with notice of the amount of the Base Assessment to be levied pursuant to such budget, to each Owner not less than thirty (30) nor more than sixty (60) days prior to the effective date of such budget. Such budget and assessment shall automatically become effective unless subject to the limitation on increases of assessments provided for in Section 8.5.

Failure of the Board to fix assessment amounts or rates or to deliver or mail each Owner an assessment notice shall not be deemed a waiver, modification, or a release of any Owner from the obligation to pay assessments. In such

event, each Owner shall continue to pay assessments on the same basis as for the last year for which an assessment was made, if any, until a new assessment is made, at which time the Association may retroactively assess any shortfalls in collections.

The Board may revise the budget and adjust the Base Assessment from time to time during the year, subject to the notice requirements and the limitations on increases of assessments provided for in Section 8.5.

8.2 Budgeting for Reserves. The Board shall prepare and review at least annually a reserve budget for the Common Area and the Roadway System. The budget shall consider the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost. The Board shall include in the Common Expense budget adopted pursuant to Section 8.1, a capital contribution paid by Owners to fund reserves in an amount sufficient to meet the projected need with respect both to amount and timing by annual contributions over the budget period.

8.3 Special Assessments. In addition to other authorized assessments, the Association may, subject to the limitations of Section 8.5, levy Special Assessments to cover unbudgeted expenses or expenses in excess of those budgeted. Any such Special Assessment may be levied against the entire membership, if such Special Assessment is for Common Expenses, or against an individual Lot or Lots if such Special Assessment is for an unbudgeted expense relating to less than all of the Lots. Special Assessments shall be payable in such manner and at such times as determined by the Board, and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved. The Board shall provide notice by first class mail to the Owner(s) of the Lot(s) subject to the Special Assessment not less than thirty (30) nor more than sixty (60) days prior to the Special Assessment becoming due.

8.4 Specific Assessments. The Association shall have the power to levy Specific Assessments against a particular Lot as follows:

(a) To cover the costs, including overhead and administrative costs, of providing services to a Lot upon request of an Owner pursuant to any menu of special services which may be offered by the Association (which might include items identified in Section 7.9). Specific Assessments for special services may be levied in advance of the provision of the requested service; and

(b) To cover costs incurred in bringing a nonconforming Lot into compliance with the Governing Documents, or costs incurred as a consequence of the conduct of the Owner or occupants of a nonconforming Lot, their agents, contractors, employees, licensees, invitees or guests; provided, the Board shall give the nonconforming Lot Owner prior written notice and an opportunity for a hearing, in accordance with the Bylaws, before levying any Specific Assessment under this subsection (b).

8.5 Limitation on Increases of Assessments. Notwithstanding any provision to the contrary, and except for assessment increases necessary for emergency situations or to reimburse the Association pursuant to Sections 8.4(a) or (b), the Board may not impose a Base Assessment that is more than twenty percent (20%) greater than each of those assessments for the immediately preceding fiscal year, nor impose a Special Assessment which in the aggregate exceeds five percent (5%) of the budgeted Common Expenses for the current fiscal year, without a majority vote of a quorum of the Members who are subject to the applicable assessment at a meeting of the Association, or action without meeting by written ballot in lieu thereof signed by all of the Members of the Association.

For purposes of this Section, "quorum" means more than fifty percent (50%) of the total voting power of the Association subject to the applicable assessment. For purposes of this Section, the term "Base Assessment" shall be deemed to include the amount assessed against each Lot plus a pro rata allocation of any amounts the Association received through any subsidy or maintenance agreement, if any, in effect for the year immediately preceding the year for which the assessment is to be increased.

An emergency situation justifying a Special Assessment may be, but shall not be limited to, any one of the following:

- (a) An extraordinary expense required by an order of a court;
- (b) An extraordinary expense necessary to repair or maintain the Properties or any part of them for which the Association is responsible where a threat to personal safety on the Properties is discovered; or
- (c) An extraordinary expense necessary to repair or maintain the Properties or any part of them for which the Association is responsible which expense could not have been reasonably foreseen by the Board in preparing and distributing the budget as provided for in Section 8.1. However, prior to the imposition or collection of such an assessment, the Board shall pass a resolution containing written findings as to the necessity of the extraordinary expense involved and why the expense was not or could not have been reasonably foreseen in the budgeting process. Such resolution shall be distributed to the Members with the notice of such assessment. In no event shall such resolution become effective against the Founder so long as the Founder owns any Lot(s) within the Properties unless the Founder consents in writing by executing any such resolution.

8.6 Authority to Assess Owners; Date of Commencement of Assessments; Time of Payment. The Founder hereby establishes that the Association is authorized to levy assessments as provided for in this Article and elsewhere in the Governing Documents. Subject to Sections 8.1, 8.7 and 10.10, the obligation to pay the assessments provided for herein shall commence as to all Lots on the first day of the month following the first conveyance of a Lot to an Owner not affiliated with the founder. The first annual assessment shall be adjusted according to the number of days remaining in the fiscal year at the time assessments commence on the Lot. Any assessments collected but not spent prior to the completion of the Roadway System or the Association incurring expenses shall be placed into the Association's reserve account for maintenance, repair and replacement of the Roadway System and any other common amenities.

Assessments shall be paid in such manner and on such dates as the Board may establish. The Board may require advance payment of assessments at closing of the transfer of title to a Lot and impose special requirements for Owners with a history of delinquent payment. If the Board elects, annual assessments may be paid in two or more installments. Unless the Board otherwise provides, the Base Assessment shall be due and payable in advance on the first day of each fiscal year. If any Owner is delinquent in paying any assessments or other charges levied on his or her Lot, the Board may require the outstanding balance on all assessments to be paid in full immediately.

8.7 Personal Obligation.

(a) Each Owner, by accepting a deed or entering into a recorded contract of sale for any portion of the Properties, is deemed to covenant and agree to pay all assessments authorized in the Governing Documents. All assessments, together with interest (computed from its due date at a rate of eighteen percent (18%) per annum or such other rate as the Board may establish, subject to the limitations of Idaho law) late charges as determined by Board resolution, costs, and reasonable attorneys' fees, shall be the personal obligation of each Owner and a lien upon each Lot until paid in full. Upon a transfer of title to a Lot, the grantee shall not be personally liable for any assessments and other charges due at the time of conveyance unless expressly assumed by him/her, but such transferred Lot shall remain subject to any liens imposed upon it pursuant to Section 8.8 herein. No first Mortgagee who obtains title to a Lot by exercising the remedies provided in its Mortgage shall be liable for unpaid assessments which accrued prior to such acquisition of title.

Failure of the Board to fix assessment amounts or rates or to deliver or mail each Owner an assessment notice shall not be deemed a waiver, modification, or a release of any Owner from the obligation to pay assessments. In such event, each Owner shall continue to pay Base Assessments on the same basis as during the last year for which an assessment was made, if any, until a new assessment is levied, at which time the Association may retroactively assess any shortfalls in collections.

No Owner may exempt himself from liability for assessments by non-use of the Common Area, by abandonment of his Lot, or any other means. The obligation to pay assessments is a separate and independent covenant on the part of each Owner. No diminution or abatement of assessments or set-off shall be claimed or allowed for any

alleged failure of the Association or Board to take some action or perform some function required of it, or for inconvenience or discomfort arising from the making of repairs or improvements, or from any other action it takes.

The Association shall, upon request, furnish to any Owner liable for any type of assessment a certificate in writing signed by an Association officer setting forth whether such assessment has been paid. Such certificate shall be conclusive evidence of payment. The Association may require the advance payment of a reasonable processing fee for the issuance of such certificate.

(b) **Founder's Obligations for Assessments.** The Founder is subject to the payment of assessments against Lots that it owns.

8.8 Lien for Assessments. Each Owner, by his or her acceptance of a deed to a Lot, hereby vests in the Association and its agents the right and power to bring all appropriate actions against such Owner personally for the collection as a debt of any unpaid and delinquent billings for Base Assessments, Special Assessments, Specific Assessments, interest, late fees, enforcement costs and other charges owing by such Owner in accordance with the terms hereof. Additionally, in order to secure payment of any billings for Base Assessments, as well as Special Assessments and Specific Assessments, interest, late fees, enforcement costs and other charges due hereunder, Founder hereby retains, and each Owner by his or her acceptance of a deed to a Lot, hereby grants the Association and its agents a lien for such Base Assessments, as well as Special Assessments and Specific Assessments, interest, late fees, enforcement costs and other charges for which such Owner is responsible under the terms hereof. The Board, acting on behalf of the Association, is authorized to record a notice of any unpaid amounts secured by such lien in the Public Records, which shall include a description of the applicable Lot and the name of the Owner thereof and the basis for the amount of the lien. Said lien shall be enforceable by the Association or its agents through all appropriate methods available under applicable Idaho law for the enforcement of such liens, including without limitation, non-judicial foreclosure, and the Founder and each such Owner hereby expressly grant to the Association a power of sale in connection with said lien. The Association may designate a trustee in writing from time to time to post or cause to be posted the required notices and to conduct such foreclosure sale. The trustee may be changed at any time and from time to time by an instrument in writing and signed by the President or a Vice President of the Association and attested by the Secretary or any Assistant Secretary of the Association and filed for record in the Public Records. The lien herein retained and granted is and shall be expressly subordinate in all respects to any Mortgage predating the charge in question (as evidenced by the recording date of a notice of unpaid assessments in the Public Records). Any holder of a Mortgage that predates the date of the charge in question and who acquires title to a Lot through foreclosure of its Mortgage or acceptance of a deed in lieu of foreclosure thereunder, shall not be liable for the unpaid portion of any such charges relating to the Lot in question that arose prior to such acquisition. Additionally, after any such foreclosure or deed in lieu of foreclosure, such Lot shall remain subject to the Declaration and the above-described lien and the new Owner of such Lot shall thereafter be personally liable for all charges of the type described above which relate to such Lot and which become due after such new Owner acquires title to said Lot by foreclosure or by acceptance of a deed in lieu of foreclosure. Except as otherwise provided above as to holders of Mortgages or by applicable law, no sale or transfer of any Lot shall: (a) relieve any Owner thereof from personal liability for any of such unpaid charges attributable to the applicable Lot which become due prior to the date of such sale or transfer; or (b) satisfy or extinguish the above-described lien in respect of such unpaid charges.

PART FOUR: COMMUNITY DEVELOPMENT

ARTICLE IX – EXPANSION OF THE COMMUNITY

9.1 Expansion by the Founder. Until the Founder has sold 80% of the Properties subject to this Declaration, the Founder may annex additional properties into the regime of this Declaration provided such property is contiguous to the properties currently contiguous to this Declaration. Such annexation shall be accomplished by filing a Supplemental Declaration in the Public Records describing the property to be annexed and specifically subjecting it to the terms of this Declaration. Such Supplemental Declaration shall not require the consent of Members but shall require the consent of the owner of such property, if other than Founder. Any such annexation shall be effective upon the filing for record of such Supplemental Declaration unless otherwise provided therein.

9.2 Additional Covenants and Easements. The Founder may subject any portion of the Properties to additional covenants and easements, including covenants obligating the Association to maintain and insure such property and authorizing the Association to recover its costs through the various Assessments as provided for herein. Such additional covenants and easements may be set forth either in a Supplemental Declaration subjecting such property to this Declaration or in a separate Supplemental Declaration referencing property previously subjected to this Declaration. If the property is owned by someone other than Founder, then the consent of the owner(s) of such property shall be necessary and shall be evidenced by their execution of the Supplemental Declaration. Any such Supplemental Declaration may supplement, create exceptions to, or otherwise modify the terms of this Declaration as it applies to the subject property in order to reflect the different character and intended use of such property.

9.3 Effect of Filing Supplemental Declarations. Any Supplemental Declaration filed pursuant to this Article shall be effective upon recording in the Public Records unless otherwise specified in such Supplemental Declaration. On the effective date of the Supplemental Declaration, any additional property subjected to this Declaration shall be assigned voting rights in the Association and assessment liability in accordance with the provisions of this Declaration.

9.4 Budget Considerations. As additional properties are annexed to the Properties pursuant to this Article IX, the budget of the Association may be affected, as well as assessment obligations of the Owners as a result thereof. In this event, any budget affecting the assessment obligations of the Owners shall be recalculated as of the end of the Association's fiscal year in which the additional property was annexed into the Association.

ARTICLE X – ADDITIONAL RIGHTS RESERVED TO FOUNDER

10.1 Withdrawal of Property. The Founder reserves the right to amend this Declaration so long as it has a right to annex additional property pursuant to Article IX, without prior notice and without the consent of any Person, for the purpose of removing property then owned by the Founder, its affiliates, or the Association from the coverage of this Declaration, to the extent originally included in error or as a result of any changes in the Founder's plans for the Properties, provided such withdrawal is not unequivocally contrary to the overall, uniform scheme of development for the Properties.

10.2 Marketing and Sales Activities. The Founder may maintain and carry out upon any of the Properties owned by Founder such facilities and activities as, in the sole opinion of the Founder, may be reasonably required, convenient, or incidental to the sale of Lots, including but not limited to, signs, and other forms of advertising. The Founder and authorized invitees shall have easements for access over the Lots for this purpose.

The founder shall also have the right to conduct marketing and sales activities on portions of the Properties that it owns, including the Common Area. The Founder shall have easements for access over the Properties to and use of any facilities located thereon together with the right to attract, invite, or bring prospective purchasers of Lots into the Properties owned by Founder at all times.

10.3 Right to Develop. The Founder and its employees, agents and designees shall have a right of access and use and an easement over and upon all of the Common Area, if any, and the Roadway System for the purpose of making, constructing, and installing improvements to such areas as it deems appropriate in its sole discretion. Founder agrees that it or the Person exercising such easement shall be responsible for any damage caused to such areas as a result of the exercise of the easement.

10.4 Right to Approve Additional Covenants. No Person shall record any declaration of covenants, conditions and restrictions, or declaration of condominium or similar instrument affecting any portion of the Properties without Founder's review and written consent. Any attempted recordation without such consent shall result in such instrument being void and of no force and effect unless subsequently approved by written consent signed by the Founder and recorded in the Public Records.

10.5 Right to Approve Changes in Community Standards. No amendment to or modification of any Master Rules and Regulations or Article IV shall be effective without prior notice to and the written approval of

Founder so long as the Founder owns property subject to this Declaration or which may become subject to this Declaration in accordance with Article IX.

10.6 Right to Transfer or Assign Founder Rights. Any or all of the special rights and obligations of the Founder set forth in this Declaration may be transferred in whole or in part to other Persons; provided, the transfer shall not reduce an obligation or enlarge a right beyond that which the Founder has under this Declaration. No such transfer or assignment shall be effective unless it is in a written instrument signed by the Founder and duly recorded in the Public Records. The foregoing sentence shall not preclude Founder from permitting other Persons to exercise, on a one-time or limited basis, any right reserved to Founder in this Declaration where Founder does not intend to transfer such right in its entirety, and in such case it shall not be necessary to record any written assignment unless necessary to evidence Founder's consent to such exercise.

10.7 Exclusive Rights to Use Name of Development. No Person shall use the name "Tod Lea" or any derivative of such name in any printed or promotional material without the Founder's prior written consent. This exclusive reservation of right to Founder shall not apply to limit: (i) Owners, who may use the name "Tod Lea" in printed or promotional matter where such term is used solely to specify that particular property is located within Tod Lea Subdivision; and (ii) the Association, which shall be entitled to use the words "Tod Lea" in its name.

10.8 Special Districts. The Founder hereby reserves the right to create an assessment, water, road, or any other type of special district which, in its sole opinion, are beneficial to the Properties. The Association and each and every Owner, by accepting a deed to a Lot, agrees to cooperate with Founder in creating and implementing such district. Nothing in this Section shall create an obligation on Founder to create or implement such districts.

10.9 Right to Appoint Members of Board and Architectural Review Committee. The Founder shall have the right to appoint the initial members of the Board of Directors of the Association and the initial members of any committee of the Board, including but not limited to the Architectural Review Committee, except as otherwise provided in the Bylaws.

10.10 Right to Delay Commencement of Association Meetings or Assessments. The Founder hereby reserves the right to delay the commencement of Association meetings or to delay implementation of Association assessments as required hereunder and in the Bylaws.

10.11 Termination of Rights. The rights contained in this Article shall not terminate until any real property made subject to this Declaration pursuant to Article IX, has been sold or otherwise transferred to owners not affiliated with Founder unless Founder elects to terminate such reservations at an earlier date. Founder may from time to time relinquish and surrender one or more but less than all of the reserved rights in which event the unrelinquished reserved rights shall remain fully valid and effective for the remainder of the term thereof. In the event Founder fails to record such written statement relinquishing its reserved rights hereunder, such reserved rights shall nonetheless terminate when Founder no longer owns any real property that is subject to this Declaration or that may become subject to this Declaration pursuant to Section 9.1

PART FIVE: PROPERTY RIGHTS WITHIN THE COMMUNITY

ARTICLE XI – EASEMENTS

11.1 Easements in Common Area. The Founder grants to each Owner a non-exclusive right and easement of use (subject to the rights of other Owners, Members and the Association), access, and enjoyment in and to the Common Area, if any, subject to:

- (a) The Governing Documents and any other applicable covenants;
- (b) Any restrictions or limitation contained in any deed conveying such property to the Association;
- (c) The right of the Board to adopt rules regulating the use and enjoyment of the Common Area;
- (d) The right of the Board to suspend the right of an Owner to use the Common Area (i) for any period during which any charge or assessment against such Owner's Lot remains delinquent, and (ii) for a period not to exceed thirty (30) days for a single violation or for a longer period in the case of any continuing violation of the Governing Documents after notice and a hearing pursuant to the Bylaws.

Any Owner may extend his or her right of use and enjoyment of the Common Area to the members of his or her family, lessees, and social invitees, as applicable, subject to reasonable regulation by the Board. An Owner who leases his or her Lot shall be deemed to have assigned all such rights to the lessee of such Lot for the period of the lease.

11.2 Easements for Utilities.

(a) All dedications, limitations, restrictions, and reservations of easements, including those for drainage, shown on the Plat or any other final map of the Properties prepared and recorded by Founder are incorporated herein by reference and made a part of this Declaration for all purposes as if fully set forth in this Declaration.

(b) The Founder hereby grants to the Association and, so long as the Founder owns any property described on **Exhibit A** of this Declaration or annexed hereto pursuant to Article IX of this Declaration, reserves for itself, and reserves the right to grant to utility providers and the Association, perpetual non-exclusive utilities easements in, on, under, over and across the Properties for the purpose of:

(i) Installing utilities and infrastructure, including without limitation, cable and other systems for sending and receiving data and/or other electronic signals; security and similar systems; walkways, pathways and trails; drainage systems and signage; to serve the Properties;

(ii) Inspecting, maintaining, repairing, and replacing a roadway and other such utilities and infrastructure to serve the Properties; and

(iii) Access to read utility meters.

(c) The Founder hereby grants to the Association and, so long as the Founder owns any property described on **Exhibit A** of this Declaration or annexed hereto pursuant to Article IX of this Declaration, reserves for itself, and reserves the right to grant to third parties and the Association, perpetual non-exclusive maintenance easements in, on, under, over and across the Common Area for the purpose of installing, repairing, replacing and maintaining Common Area;

(d) The Founder hereby grants to the Association the following: (i) a perpetual non-exclusive use and maintenance easement in, on, under, over and across the Open Space Easement described on the Plat for the

purpose of maintaining the Open Space Easement, including without limitation, fencing, walkways, pathways and trails; and (ii) the right to grant licenses to the Owners to use the Open Space Easement in accordance with this Declaration and the Master Rules and Regulations.

(d) Founder also reserves for itself, so long as the Founder owns any property described on **Exhibit A** of this Declaration or annexed hereto pursuant to Article IX of this Declaration, the non-exclusive right and power to grant and record in the Public Records such specific easements as may be necessary, in the sole discretion of Founder, in connection with the orderly development of the property described on **Exhibit A** or any property annexed hereto pursuant to Article IX.

(e) All work associated with the exercise of the easements described in subsections (b), (c) and (d) of this Section shall be performed in such a manner as to minimize interference with the use and enjoyment of the property burdened by the easement. Upon completion of the work, the Person exercising the easement shall restore the property, to the extent reasonably possible, to its condition prior to the commencement of the work. The exercise of these easements shall not extend to permitting entry into the structures on any Lot, nor shall it unreasonably interfere with the use of any Lot and, except in an emergency, entry onto any Lot shall be made only after reasonable notice to the Owner or occupant.

11.3 Easements to Serve Additional Property. The Founder hereby reserves for itself and its duly authorized agents, successors, assigns, and mortgagees, an easement over the Common Area for the purposes of enjoyment, use, access, and development of any property annexed into the Declaration, whether or not such property is made subject to the Declaration. This easement includes, but is not limited to, a right of ingress and egress over the Roadway System for construction of road and for connecting and installing utilities on such property.

11.4 Easements for Maintenance, Emergency and Enforcement. The Founder grants to the Association easements over the Common Area as necessary to enable the Association to fulfill its maintenance responsibilities under Section 7.3. The Association shall also have the right, but not the obligation, to enter upon any Lot, but not to enter any structure thereon, for emergency, security, and safety reasons and to inspect for the purpose of ensuring compliance with and to enforce the Governing Documents. Such right may be exercised by any member of the Board and its duly authorized agents and assignees, and all emergency personnel in the performance of their duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner.

11.5 Easements for Cross-Drainage. Every Lot shall be burdened with easements for natural drainage of storm water runoff from other portions of the Properties; provided, no Person shall alter the natural drainage on any Lot to increase materially the drainage of storm water onto adjacent portions of the Properties without the consent of the Owner(s) of the affected Lot and the Board.

11.6 Easement for Emergency Vehicles. The Properties are hereby burdened with an easement allowing all policemen, firemen, ambulance personnel, and similar emergency personnel entry to perform their duties, including the enforcement of traffic regulations.

11.7 Title to and Use of Roadway System. Title to the portion of the Roadway System that is contained within the boundaries of a Lot (the "Burdened Lot") shall be retained by the Owner of the Burdened Lot and shall be subject to the provisions of this Declaration. Founder hereby grants to each Owner and occupant, its successors and assigns and each of their guests or invitees a non-exclusive easement in, on, under, over and across the Roadway System for vehicular and pedestrian ingress, egress, access to and from their Lot and for private road purposes subject to the Master Rules and Regulations. Additionally, the Founder reserves the right to grant additional easements over the Roadway System to provide access and underground utilities to lands subject to annexation by Founder. Specifically, the scope of the Sruth Lane easements by be expanded to provide access and utilities to lands annexed into this Declaration by Founder.

The Association shall have the right to control vehicular circulation through the Properties by such means as establishing speed limits, by installing speed bumps or by any other means reasonably adopted by the Association.

PART SIX: RELATIONSHIPS WITHIN AND OUTSIDE THE COMMUNITY

The growth and success of Tod Lea Subdivision as a community in which people enjoy living requires good faith efforts to resolve disputes amicably, attention to and understanding of relationship within the community and with our neighbors, and protections of the rights of others who have an interest in the community.

ARTICLE XII – DISPUTE RESOLUTION AND LIMITATION ON LITIGATION

12.1 Consents for Association Litigation. Except as provided in this Section, the Association shall not commence a judicial or administrative proceeding without the approval of a majority of a quorum of the Members. This Section shall not apply, however, to (a) actions brought by the Association to enforce the Governing Documents (including, without limitation, the foreclosure of liens); (b) the collection of assessments; or (c) counterclaims brought by the Association in proceedings instituted against it. This Section shall not be amended unless such amendment is approved by the percentage of votes, and pursuant to the same procedures, necessary to institute proceedings as provided above.

12.2 Alternative Method for Resolving Disputes. The Founder, the Association, its officers, directors, and committee members, if any, all Persons subject to this Declaration, and any Person not otherwise subject to this Declaration who agrees to submit to this Article (collectively, “Bound Parties”) agree to encourage the amicable resolution of disputes involving the Properties, without the emotional and financial costs of litigation. Accordingly, each Bound Party covenants and agrees that these claims, grievances, or disputes described in Section 12.3 shall be resolved using the procedures set forth in Section 12.4 in lieu of filing suit in any court.

12.3 Claims. Unless specifically exempted below, all Claims arising out of or relating to the interpretation, application or enforcement of the Governing Documents, or the rights, obligations and duties of any Bound Party under the Governing Documents or relating to the design or construction of improvements on the Properties shall be subject to the provisions of Section 12.4.

Notwithstanding the above, unless all parties thereto otherwise agree, the following shall not be Claims and shall not be subject to the provisions of Section 12.4:

(a) Any suit by the Association against a Bound Party to obtain a temporary restraining order (or equivalent emergency equitable relief) and such other ancillary relief as the court may deem necessary in order to maintain the status quo and preserve the Association’s ability to enforce the provisions of Articles III, IV and V;

(b) Any suit between Owners, which does not include Founder or the Association as a party, if such suit asserts a Claim which would constitute a cause of action independent of the Governing Documents, if the amount in controversy exceeds five thousand dollars (\$5,000);

(c) Any suit in which any indispensable party is not a Bound Party;

(d) Any suit as to which the applicable statute of limitations would expire within one-hundred twenty (120) days of the Request for Resolution pursuant to Section 12.4, unless the party or parties against whom the Claim is made agree to toll the statute of limitations for such periods as may be reasonably necessary to comply with this Article; and

With the consent of all parties thereto, any of the above may be submitted to the alternative dispute resolution procedures set forth in Section 12.4.

12.4 Mandatory Procedures.

(a) **Request for Resolution.** Any Bound Party having a Claim (“Claimant” against any other Bound Party (“Respondent”) (collectively, the “Parties”) shall notify each Respondent in writing (the “Request for Resolution”), stating plainly and concisely:

1. The nature of the Claim, including the Persons involved and Respondent;
2. The legal basis of the Claim (i.e., the specific authority out of which the Claim arises);
3. Claimant’s proposed remedy; and
4. That Claimant will meet with Respondent to discuss in good faith ways to resolve the Claim; and
5. That Respondent must respond to the Request for Resolution within thirty (30) days of its receipt or it will be deemed to have been rejected.

(b) **Negotiation and Mediation.**

1. The Parties shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation. If requested in writing, accompanied by a copy of the Request for Resolution, the Board may appoint a representative to assist the Parties in negotiation.

2. If the Respondent rejects the Request for Resolution, or Parties do not resolve the Claim within ninety (90) days of the date of acceptance of the Request for Resolution (or within such other period as may be agreed upon by the Parties) (“Termination of Negotiations”), Claimant shall have thirty (30) additional days to submit the Claim to mediation under the auspice of an independent mediation agency providing dispute resolution services in Teton County, Idaho.

3. If Claimant does not submit the Claim to mediation within such time, or does not appear for the mediation, Claimant shall be deemed to have waived the Claim, and Respondent shall be released and discharged from any and all liability to Claimant on account of such Claim; provided, nothing herein shall release or discharge Respondent from any liability to any Person other than the Claimant.

4. Any settlement of the Claim through mediation shall be documented in writing by the mediator and signed by the Parties. If the Parties do not settle the Claim within thirty (30) days after submission of the matter to the mediation, or within such time as determined by the mediator, the mediator shall issue a notice of termination of the mediation proceedings (“Termination of Mediation”). The Termination of Mediation notice shall set forth that the Parties are at an impasse and the date that mediation was terminated.

5. Within five (5) days of the Termination of Mediation, the Claimant shall make a final written settlement demand (“Settlement Demand”) to the Respondent, and the Respondent shall make a final written settlement offer (“Settlement Offer”) to the Claimant. If the Claimant fails to make a Settlement Demand, Claimant’s original Request for Resolution shall constitute the Settlement Demand. If the Respondent fails to make a Settlement Offer, Respondent shall be deemed to have made a “zero” or “take nothing” Settlement Offer. In this event, the Mediator shall issue a final written binding decision within ten (10) days of the last offer. This decision shall bind the parties and may be reduced to judgment. The judgment may be enforced by a court of law after the procedures described in Section 12.6 have been exhausted.

12.5 Allocation of Costs of Resolving Claims.

(a) Subject to Section 12.5(b), each Party shall bear its own costs, including attorneys’ fees, and each Party shall share equally all charges rendered by the mediator(s) (“Post Mediation Costs”).

(b) Any Award which is equal to or more favorable to Claimant than Claimant's Settlement Demand shall add Claimant's Post Mediation Costs to the Award, such costs to be borne equally by all Respondents. Any Award which is equal to or less favorable to Claimant than any Respondent's Settlement Offer shall award to such Respondent its Post Mediation Costs.

12.6 Enforcement of Resolution. After resolution of any Claim, if any Party fails to abide by the terms of any agreement or Award, then any other Party may file suit or initiate administrative proceedings to enforce such agreement or Award without the need to again comply with the procedures set forth in Section 12.4. In such event, the Party taking action to enforce the agreement or Award shall be entitled to recover from the non-complying Party (or if more than one non-complying Party, from all such Parties pro rata) at all costs incurred in enforcing such agreement or Award, including, without limitation, attorneys' fees and court costs.

12.7 Board Authorization. The Board may perform any act reasonably necessary to institute, defend, settle, or intervene on behalf of the Association in binding arbitration, non-binding arbitration, mediation, litigation, or administrative proceedings in matters pertaining to (a) enforcement of the governing documents, (b) damage to the Common Area or Roadway System, (c) damage to the Lots which arises out of, or is integrally related to, damage to the Common Area or Roadway System, or (d) any other civil claim or action.

ARTICLE XIII – AMENDMENT OF DECLARATION

13.1 By Founder. In addition to specific amendment rights granted elsewhere in this Declaration, until conveyance of the fifth Lot to an Owner unaffiliated with Founder, Founder may unilaterally amend or repeal this Declaration for any purpose. Thereafter, the Founder may unilaterally amend this Declaration if such amendment is necessary to (i) bring any provision into compliance with any applicable governmental statute, rule, regulation, or judicial determination; (ii) enable any reputable title insurance company to issue title insurance coverage on the Lots; (iii) enable any institutional or Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to make, purchase, insure or guaranty mortgage loans on the Lots; or (iv) to satisfy the requirements of any local, state or federal governmental agency. However, any such amendment shall not adversely affect the title to any Lot unless the Owner thereof shall consent in writing.

13.2 By Members. Except as otherwise specifically provided above and elsewhere in this Declaration, this Declaration may be amended only by the affirmative vote or written consent, or any combination thereof, of at least seventy-five percent (75%) of the Members.

Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

13.3 Validity and Effective Date. No amendment may remove, revoke, or modify any right or privilege of the Founder without the written consent of the Founder. If an Owner consents to any amendment to this Declaration or the Bylaws, it will be conclusively presumed that such Owner has the authority to consent, and no contrary provision in any Mortgage or contract between the Owner and a third party will affect the validity of such amendment. Any amendment shall become effective upon recording in the Public Records, unless a later effective date is specified in the amendment. Any procedural challenge to an amendment must be made within thirty (30) days of its recordation, or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of this Declaration.

IN WITNESS WHEREOF, the undersigned Founder has executed this Declaration the date and year first written above.

Christopher Hawks, P.C., a Wyoming professional corporation,
Trustee of the MH 2000 Dynasty Insurance Trust,

By: _____
Name: _____
Title: _____

STATE OF WYOMING)
) ss.
COUNTY OF TETON)

On _____, 2023, before me, _____, Trustee of the MH 2000 Dynasty Insurance Trust personally known to me or proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he or she executed the same in his or her authorized capacity, and that by his or her signature on the instrument, the person or entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Notary Public
My commission expires:

Draft Subject to changes

EXHIBIT A

{legal description of property subject to Declaration}

Draft Subject to changes