

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

RECEIVED

JUL 07 2016

WATER RESOURCES  
WESTERN REGION

## Notice of Change in Water Right Ownership

1. List the numbers of all water rights and/or adjudication claim records to be changed. If you only acquired a portion of the water right or adjudication claim, check "Yes" in the "Split?" column. If the water right is leased to the Water Supply Bank, check "Yes". If you are not sure if the water right is leased to the Water Supply Bank, [see #6](#) of the instructions.

| Water Right/Claim No. | Split?                       | Leased to Water Supply Bank? | Water Right/Claim No. | Split?                       | Leased to Water Supply Bank? |
|-----------------------|------------------------------|------------------------------|-----------------------|------------------------------|------------------------------|
| 63-32977              | Yes <input type="checkbox"/> | Yes <input type="checkbox"/> |                       | Yes <input type="checkbox"/> | Yes <input type="checkbox"/> |
| 63-32979              | Yes <input type="checkbox"/> | Yes <input type="checkbox"/> |                       | Yes <input type="checkbox"/> | Yes <input type="checkbox"/> |
| 63-33485              | Yes <input type="checkbox"/> | Yes <input type="checkbox"/> |                       | Yes <input type="checkbox"/> | Yes <input type="checkbox"/> |
| 63-33483              | Yes <input type="checkbox"/> | Yes <input type="checkbox"/> |                       | Yes <input type="checkbox"/> | Yes <input type="checkbox"/> |
|                       | Yes <input type="checkbox"/> | Yes <input type="checkbox"/> |                       | Yes <input type="checkbox"/> | Yes <input type="checkbox"/> |

2. Previous Owner's Name: Spurwing Greens LLC  
Name of current water right holder/claimant
3. New Owner(s)/Claimant(s): Spurwing Greens Master Association, Incorporated  
New owner(s) as listed on the conveyance document      Name connector ☐ and ☐ or ☐ and/or
- 12601 W. Explorer Dr., Suite 200      Boise      ID      83713  
Mailing address      City      State      ZIP
- (208) 378-4000      \_\_\_\_\_  
Telephone      Email
4. If the water rights and/or adjudication claims were split, how did the division occur?  
☐ The water rights or claims were divided as specifically identified in a deed, contract, or other conveyance document.  
☐ The water rights or claims were divided proportionately based on the portion of their place(s) of use acquired by the new owner.
5. Date you acquired the water rights and/or claims listed above: 2016
6. If the water right is leased to the Water Supply Bank changing ownership of a water right will reassign to the new owner any Water Supply Bank leases associated with the water right. Payment of revenue generated from any rental of a leased water right requires a completed [IRS Form W-9](#) for payment to be issued to an owner. A new owner for a water right under lease shall supply a W-9. Water rights with multiple owners must specify a designated lessor, using a completed [Lessor Designation](#) form. Beginning in the calendar year following an acknowledged change in water right ownership, compensation for any rental will go to the new owner(s).
7. This form must be signed and submitted with the following **REQUIRED** items:  
☒ A copy of the conveyance document – warranty deed, quitclaim deed, court decree, contract of sale, etc. The conveyance document must include a legal description of the property or description of the water right(s) if no land is conveyed.  
☐ Plat map, survey map or aerial photograph which clearly shows the place of use and point of diversion for each water right and/or claim listed above (if necessary to clarify division of water rights or complex property descriptions).  
☒ Filing fee (see instructions for further explanation):  
     ☐ \$25 per undivided water right.  
     ☐ \$100 per split water right.  
     ☐ No fee is required for pending adjudication claims.  
☐ If water right(s) are leased to the Water Supply Bank AND there are multiple owners, a Lessor Designation form is required.  
☐ If water right(s) are leased to the Water Supply Bank, the individual owner or designated lessor must complete, sign and submit an IRS Form W-9.

8. Signature: [Signature]      President      6/21/16  
Signature of new owner/claimant      Title, if applicable      Date

Signature: \_\_\_\_\_      \_\_\_\_\_      \_\_\_\_\_  
Signature of new owner/claimant      Title, if applicable      Date

### For IDWR Office Use Only:

Received by [Signature]      Date 7/7/16      Receipt No. WD443916      Receipt Amt. \$100<sup>00</sup>

Active in the Water Supply Bank? Yes ☐ No ☒      If yes, forward to the State Office for processing      W-9 received? Yes ☐ No ☒

Name on W-9 X      Approved by [Signature]      Processed by [Signature]      Date 02/08/17

When recorded, please return to:

Spurwing Greens Master Association Inc.  
12601 W Explorer Drive, Suite 200  
Boise, Idaho 83716

ADA COUNTY RECORDER Christopher D. Rich  
BOISE IDAHO Pgs=3 VICTORIA BAILEY  
TITLEONE BOISE

**2016-059282**  
**07/05/2016 09:59 AM**  
**\$16.00**

## **SPECIAL WARRANTY DEED FOR WATER RIGHT**

FOR VALUE RECEIVED, Spurwing Greens LLC, a limited liability company, whose address is 3405 E Overland Rd, Suite 150, Meridian, ID 83642 ("Grantor"), does hereby grant, bargain, sell, assign, and convey unto Spurwing Greens Master Association, Inc., an Idaho non-profit corporation, of the County of Ada, State of Idaho whose address is as above ("Grantee") and to Grantees heirs and assigns forever, all of Grantor's right, title and interest in the water rights described in Exhibit A, and hereto (collectively the "Water Rights").

Grantor retains no residual or reversionary interest in any of the Water Rights listed in Exhibit A. Grantor hereby covenants and warrants to Grantee as follows:

- A. that Grantor is the owner in fee simple of the Water Rights;
- B. that Grantor has not conveyed any of the Water Rights to anyone other than Grantee;
- C. that Grantor has the authority to convey the Water Rights to Grantee;
- D. Grantor has disclosed to Grantee in good faith all relevant information known to Grantor bearing on the validity and extent of the Water Rights.

Grantor makes no other guarantees, covenants or warranties as to the Water Rights, their transferability, or yield upon transfer, change, exchange or use in a mitigation plan.

[End of Text]

IN WITNESS WHEREOF, the undersigned authorized officer of Grantor acting on behalf of Grantor, have caused their name to be hereunto subscribed on the date shown.

Grantor:

**SPURWING GREENS, LLC,**  
an Idaho limited liability company

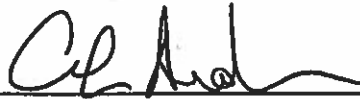
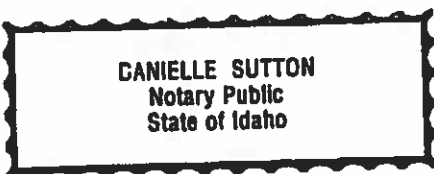
By:   
Name: Christopher L Anderson  
Its: Manager

Exhibit A: List of Water Right Numbers

STATE OF IDAHO     )  
                                  ) ss.  
County of Ada         )

On this 29th, day of June, 2016 before me the undersigned Notary Public in and for said state, personally appeared Christopher L Anderson known or identified to me to be the Manager of the limited liability company that executed the instrument or the person who executed the instrument on behalf of said limited liability company and acknowledged to me that such limited liability company executed the same.

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



  
Notary public  
Residing at Meridian, ID  
My commission expires 11/9/18

**EXHIBIT A**  
**Water Right Numbers**

**63-32977**

**63-32979**

**63-33485**

**63-33483**

ADA COUNTY RECORDER J. DAVID NAVARRO  
BOISE IDAHO 10/19/10 02:45 PM  
DEPUTY Vicki Allen  
RECORDED-REQUEST OF  
SWG Brighton

AMOUNT 157.00 50



**MASTER DECLARATION  
OF  
COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS  
FOR  
SPURWING GREENS**

October 19, 2010

**MASTER DECLARATION  
OF  
COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS  
FOR  
SPURWING GREENS**

**Table of Contents**

|                                                                               |           |
|-------------------------------------------------------------------------------|-----------|
| <b>ARTICLE I RECITALS.....</b>                                                | <b>2</b>  |
| <b>ARTICLE II DECLARATION.....</b>                                            | <b>2</b>  |
| <b>ARTICLE III DEFINITIONS.....</b>                                           | <b>3</b>  |
| <b>ARTICLE IV PURPOSE.....</b>                                                | <b>6</b>  |
| <b>ARTICLE V PERMITTED USES AND PERFORMANCE RULES AND STANDARDS.....</b>      | <b>7</b>  |
| <b>SECTION 5.01 Use.....</b>                                                  | <b>7</b>  |
| <b>SECTION 5.02 Buildings.....</b>                                            | <b>7</b>  |
| <b>SECTION 5.03 Approval of Use and Plans.....</b>                            | <b>7</b>  |
| <b>SECTION 5.04 Prohibited Buildings/Uses.....</b>                            | <b>7</b>  |
| <b>SECTION 5.05 Set-Backs.....</b>                                            | <b>8</b>  |
| <b>SECTION 5.06 Antennae.....</b>                                             | <b>8</b>  |
| <b>SECTION 5.07 Easements.....</b>                                            | <b>8</b>  |
| (a) Public Utilities.....                                                     | 8         |
| (b) Water Drainage.....                                                       | 8         |
| (c) Access to Common Areas.....                                               | 8         |
| (d) Encroachment.....                                                         | 8         |
| (e) Common Driveways.....                                                     | 9         |
| (f) Plat.....                                                                 | 9         |
| (g) Sub-Association Improvements.....                                         | 9         |
| <b>SECTION 5.08 Lighting.....</b>                                             | <b>9</b>  |
| <b>SECTION 5.09 Roofs.....</b>                                                | <b>9</b>  |
| <b>SECTION 5.10 Animals.....</b>                                              | <b>9</b>  |
| <b>SECTION 5.11 Septic Tanks/Cesspools.....</b>                               | <b>9</b>  |
| <b>SECTION 5.12 Grading and Drainage.....</b>                                 | <b>9</b>  |
| <b>SECTION 5.13 Maintenance.....</b>                                          | <b>10</b> |
| <b>SECTION 5.14 Mining and Drilling.....</b>                                  | <b>11</b> |
| <b>SECTION 5.15 Screening of Automobiles, and Vehicles and Equipment.....</b> | <b>11</b> |
| <b>SECTION 5.16 Driveways.....</b>                                            | <b>11</b> |
| <b>SECTION 5.17 Garage Doors.....</b>                                         | <b>12</b> |

|                                                                        |           |
|------------------------------------------------------------------------|-----------|
| <b>SECTION 5.18 Exterior Materials and Colors.....</b>                 | <b>12</b> |
| <b>SECTION 5.19 Vehicles.....</b>                                      | <b>12</b> |
| <b>SECTION 5.20 Exterior Energy Devices.....</b>                       | <b>12</b> |
| <b>SECTION 5.21 Mailboxes.....</b>                                     | <b>12</b> |
| <b>SECTION 5.22 Signs.....</b>                                         | <b>12</b> |
| <b>SECTION 5.23 Subdividing.....</b>                                   | <b>12</b> |
| <b>SECTION 5.24 Fences.....</b>                                        | <b>13</b> |
| <b>SECTION 5.25 Landscaping.....</b>                                   | <b>13</b> |
| <b>SECTION 5.26 Storm Water Drainage Easements.....</b>                | <b>13</b> |
| <b>SECTION 5.27 Adoption of ACC Rules/ACC Rules and Standards.....</b> | <b>14</b> |
| <b>SECTION 5.28 Exemption of Declarant.....</b>                        | <b>14</b> |
| <b>ARTICLE VI SPURWING MASTER ASSOCIATION INC.....</b>                 | <b>14</b> |
| <b>SECTION 6.01 Organization of Master Association.....</b>            | <b>14</b> |
| <b>SECTION 6.02 Members.....</b>                                       | <b>14</b> |
| <b>SECTION 6.03 Classes of Membership.....</b>                         | <b>14</b> |
| <b>SECTION 6.04 Board of Directors and Officers.....</b>               | <b>15</b> |
| <b>SECTION 6.05 Powers of Master Association.....</b>                  | <b>15</b> |
| (a) Assessments.....                                                   | 15        |
| (b) Right of Enforcement.....                                          | 15        |
| (c) Creation of Sub-Associations, and Delegation of Powers.....        | 15        |
| (d) Liability of Board Members and Officers.....                       | 15        |
| (e) Master Association Rules.....                                      | 15        |
| (f) Enforcement/Complaints.....                                        | 16        |
| (g) Emergency Powers.....                                              | 16        |
| (h) Licenses, Easements and Rights-of-Way.....                         | 16        |
| (i) Fiscal Year.....                                                   | 16        |
| <b>SECTION 6.06 Duties of Master Association.....</b>                  | <b>16</b> |
| (a) Operation and Maintenance of Common Area.....                      | 16        |
| (b) Taxes and Assessments.....                                         | 17        |
| (c) Utilities.....                                                     | 17        |
| (d) Insurance.....                                                     | 17        |
| (e) Administration Fees - Costs.....                                   | 18        |
| (f) Identification Signs.....                                          | 18        |
| (g) Rule Making.....                                                   | 18        |
| (h) Enforcement of Restrictions and Rules.....                         | 18        |
| <b>SECTION 6.07 Cost of Maintenance, Repairs and Replacement.....</b>  | <b>18</b> |
| <b>SECTION 6.08 Budgets and Financial Statements.....</b>              | <b>19</b> |
| <b>SECTION 6.09 Effective Date.....</b>                                | <b>19</b> |

|                                                               |           |
|---------------------------------------------------------------|-----------|
| <b>ARTICLE VII ASSOCIATION PROPERTY .....</b>                 | <b>19</b> |
| <b>SECTION 7.01 Use .....</b>                                 | <b>19</b> |
| (a) Articles, etc. ....                                       | 19        |
| (b) Suspension of Rights. ....                                | 19        |
| (c) Dedications. ....                                         | 19        |
| (d) Conveyance of Common Area. ....                           | 19        |
| (e) Mortgage of Common Area. ....                             | 20        |
| (f) Tennis Facilities. ....                                   | 20        |
| (g) Social Memberships. ....                                  | 20        |
| <b>SECTION 7.02 Liability for Damage. ....</b>                | <b>20</b> |
| <b>SECTION 7.03 Damage and Destruction. ....</b>              | <b>20</b> |
| <b>SECTION 7.04 Condemnation. ....</b>                        | <b>20</b> |
| <b>ARTICLE VIII ASSESSMENTS .....</b>                         | <b>20</b> |
| <b>SECTION 8.01 Covenant to Pay Assessments. ....</b>         | <b>20</b> |
| <b>SECTION 8.02 Regular Assessments. ....</b>                 | <b>21</b> |
| <b>SECTION 8.03 Special Assessments. ....</b>                 | <b>21</b> |
| <b>SECTION 8.04 Limited Assessments. ....</b>                 | <b>21</b> |
| (a) Maintenance and Repair. ....                              | 21        |
| (b) Correction of Violations. ....                            | 22        |
| (c) Limited Purpose. ....                                     | 22        |
| <b>SECTION 8.05 Commencement of Regular Assessments. ....</b> | <b>22</b> |
| <b>SECTION 8.06 Uniform Rate of Assessment. ....</b>          | <b>22</b> |
| <b>SECTION 8.07 Assessment Due Date. ....</b>                 | <b>22</b> |
| <b>SECTION 8.08 Interest and Penalties. ....</b>              | <b>22</b> |
| <b>SECTION 8.09 Estoppel Certificate. ....</b>                | <b>23</b> |
| <b>SECTION 8.10 Notice and Quorum Requirements. ....</b>      | <b>23</b> |
| <b>ARTICLE IX ENFORCEMENT OF ASSESSMENTS .....</b>            | <b>23</b> |
| <b>SECTION 9.01 Right to Enforce. ....</b>                    | <b>23</b> |
| <b>SECTION 9.02 Creation of Assessment Liens. ....</b>        | <b>23</b> |
| <b>SECTION 9.03 Notice of Assessment. ....</b>                | <b>24</b> |
| <b>SECTION 9.04 Enforcement. ....</b>                         | <b>24</b> |
| <b>SECTION 9.05 Notice Required. ....</b>                     | <b>24</b> |
| <b>SECTION 9.06 Reporting. ....</b>                           | <b>24</b> |
| <b>SECTION 9.07 Non-Exclusive Remedy. ....</b>                | <b>25</b> |
| <b>ARTICLE X ENFORCEMENT OF PROVISIONS .....</b>              | <b>25</b> |
| <b>SECTION 10.01 Right to Enforce. ....</b>                   | <b>25</b> |

|                                                                  |    |
|------------------------------------------------------------------|----|
| SECTION 10.02 Complaints.....                                    | 25 |
| SECTION 10.03 Hearing.....                                       | 26 |
| SECTION 10.04 Appeal.....                                        | 26 |
| SECTION 10.05 Enforcement.....                                   | 27 |
| SECTION 10.06 Additional Damages.....                            | 28 |
| SECTION 10.07 Non-Exclusive Remedy.....                          | 28 |
| SECTION 10.08 Private Rights.....                                | 28 |
| SECTION 10.09 Inspection Fee(s).....                             | 28 |
| ARTICLE XI ANNEXATION.....                                       | 28 |
| SECTION 11.01 Annexation - Master Declaration.....               | 28 |
| SECTION 11.02 Annexation - Supplemental Declaration.....         | 28 |
| SECTION 11.03 De-Annexation.....                                 | 29 |
| ARTICLE XII MISCELLANEOUS .....                                  | 29 |
| SECTION 12.01 Term.....                                          | 29 |
| SECTION 12.02 Amendment.....                                     | 29 |
| (a) By Declarant.....                                            | 29 |
| (b) By Members.....                                              | 29 |
| (c) By Necessity.....                                            | 29 |
| (d) Books and Records.....                                       | 30 |
| SECTION 12.03 Non-Waiver.....                                    | 30 |
| SECTION 12.04 Acceptance.....                                    | 30 |
| SECTION 12.05 Indemnification of Board Members.....              | 30 |
| SECTION 12.06 Notices.....                                       | 30 |
| SECTION 12.07 Interpretation.....                                | 31 |
| SECTION 12.08 Severability.....                                  | 31 |
| SECTION 12.09 Not a Partnership.....                             | 31 |
| SECTION 12.10 No Third Party Beneficiary Rights.....             | 31 |
| SECTION 12.11 Injunctive Relief.....                             | 31 |
| SECTION 12.12 Breach Shall Not Permit Termination.....           | 31 |
| SECTION 12.13 Attorney's Fees.....                               | 31 |
| SECTION 12.14 Force Majeure.....                                 | 31 |
| SECTION 12.15 Mediation.....                                     | 31 |
| SECTION 12.16 Water Rights Appurtenant to Subdivision Lands..... | 32 |

**NOTICE TO POTENTIAL  
BUYERS AND OWNERS**

**THIS DOCUMENT IS A VERY IMPORTANT LEGAL DOCUMENT WHICH EACH POTENTIAL RESIDENT AND OWNER WITHIN THE PROPERTY SHOULD READ AND UNDERSTAND. THIS DOCUMENTS DETAILS THE OBLIGATIONS AND RESPONSIBILITIES OF ALL THE PROPERTY OWNERS AND RESIDENTS.**

**THE DECLARANT (AS DEFINED HEREIN) EXPRESSLY DISCLAIMS ANY REPRESENTATIONS, WARRANTIES, STATEMENTS OR INFORMATION NOT SET FORTH HEREIN OR IN ANY WRITTEN DOCUMENT EXECUTED BY DECLARANT. THE MASTER ASSOCIATION (AS DEFINED HEREIN) HAS NUMEROUS DUTIES AND RESPONSIBILITIES THAT REQUIRES EXPENDITURES BY THE MASTER ASSOCIATION, SOME OF WHICH MAY NOT BE KNOWN AT THE TIME AN OWNER ACQUIRES A LOT WITHIN THE PROPERTY. THE FUNDS NEEDED TO MEET THESE EXPENDITURES SHALL BE PROVIDED BY ASSESSMENTS ON THE OWNERS, OR A SUB-ASSOCIATION OF WHICH AN OWNER IS A MEMBER. ANY REPRESENTATIONS OR WARRANTIES MADE BY ANY REAL ESTATE BROKER OR AGENT OR OTHER PERSON CONCERNING ANY MATTER, INCLUDING, BUT NOT LIMITED TO THE TOTAL OR THE TYPES OF ASSESSMENTS TO BE LEVIED AGAINST AN OWNER OR A SUB-ASSOCIATION TO PAY FOR ANY ASPECT OF THE PROPERTY, SHOULD BE DISREGARDED IN THEIR ENTIRETY AND IN ALL EVENTS THE TERMS AND CONDITIONS OF THIS MASTER DECLARATION AND ANY APPLICABLE DOCUMENTS EXECUTED BY THE DECLARANT SHALL CONTROL.**

**SPURWING GREENS IS NOT IN ANY WAY RELATED TO THE ADACENT DEVELOPMENT OF SPURWING COUNTRY CLUB, INC., SPURWING COUNTRY CLUB, AND/OR THE SPURWING SUBDIVISION. AN OWNER, HOWEVER, BASED ON THIS DEVELOPMENT'S AGREEMENTS WITH THE ABOVE, MAY BE ENTITLED TO USE CERTAIN FACILITIES FROM TIME TO TIME, AND ONLY SUCH FACILITIES AS HEREIN SPECIFIED, ASSOCIATED WHOLLY OR PARTIALLY WITH SPURWING COUNTRY CLUB, SOLELY BASED ON THE TERMS AND CONDITIONS CONTAINED HEREIN AND THE AGREEMENTS WITH THE ABOVE.**

## **ARTICLE I**

### **RECITALS**

**WHEREAS**, the Declarant, and others as listed on Exhibit A ("Additional Owners"), are the owners of residential property in Ada County, Idaho, with such real property more particularly described on Exhibit A ("Property");

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

**WHEREAS**, as additional land owned by the Declarant, or owned by either of the parties consisting of the Declarant, adjacent to the Property is platted and developed for uses similar to that of the Property, upon election by the Declarant, such shall become subject to the terms of this Master Declaration by the Declarant's annexation of the same as provided herein;

**WHEREAS**, because the Property will be developed in several phases, each of which may have unique characteristics, needs and requirements, the Declarant may, from time to time, promulgate further conditions, covenants, restrictions and easements relating to particular tracts or parcels of real property within the Property, which may supplement and/or amend this Master Declaration; and

**WHEREAS**, in order to achieve the objectives and desires of the Declarant, the Declarant and the Master Association will control the management and government of the Property, except for any management delegated to a Sub-Association through a Supplemental Declaration as provided herein.

All capitalized terms used in this Master Declaration shall have the same meanings as in Article III, Definitions.

## **ARTICLE II**

### **DECLARATION**

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

Notwithstanding the foregoing, no provision of this Master Declaration shall be construed or enforced to prevent or limit the Declarant's right to complete development of the Property in accordance

with Declarant's plan therefor as the same exists or may be modified from time to time by the Declarant nor prevent normal construction activities during the construction of Improvements upon any Lot in the Property. No development or construction activities shall be deemed to constitute a nuisance or violation of this Master Declaration by reason of noise, dust, presence of vehicles or construction machinery, erection of temporary structures, posting of signs or similar activities, provided that the same are actively, efficiently and expeditiously pursued to completion. In the event any dispute concerning the foregoing shall arise, a temporary waiver of the applicable provision(s) of this Master Declaration may be granted by the Master Association (as defined herein) provided that such waiver shall be for a reasonable period of time and shall not violate the ordinances of the City of Meridian, Idaho, applicable to the Property. Any such waiver need not be recorded and shall not constitute an amendment of this Master Declaration.

### **ARTICLE III**

#### **DEFINITIONS**

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

**Annexation:** The process by which additional tracts or parcels of land not initially a part of the Property are made subject to this Master Declaration.

**Assessment:** A payment required of a Sub-Association and/or an Owner of a Lot, including Regular, Special or Limited Assessments as provided in this Master Declaration.

**Automobiles:** Cars, sport utility vehicles, motorcycles, motorized scooters, and/or standard size pick-up trucks and/or vans, all whether operable or inoperable.

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

**Building:** A structure, whether complete, substantially complete, or partially complete, including, but not limited to, a foundation for such structure, constructed on a Lot on a temporary or permanent basis and, unless specified to the contrary, shall include all other appurtenances and improvements thereto or used in connection therewith, whether complete, substantially complete or partially complete.

**Bylaws:** The Bylaws of the Master Association, including any amendments thereto duly adopted.

**Common Area:** All real and personal property interests owned or controlled by the Master Association, or which the Master Association is obligated to maintain, administer, or manage, and the Improvements located therein or thereon, regardless of whether such interest is located within or outside the boundaries of the Property, and any rights associated therewith, including, but not limited to, Lots, easements, licenses, leases, pathways, Tennis Facilities and/or Social Memberships, and the rights and obligations associated therewith, as determined from time to time, by the Master Association, and/or pursuant to the SCC Documents.

**Common Driveway:** A driveway used for vehicular access to more than one (1) Lot, as shown on a Plat.

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

**Declarant:** SWG Brighton LLC, an Idaho limited liability company ("Brighton") and Spurwing Greens LLC, an Idaho limited liability company ("Spurwing"), collectively. Brighton and/or Spurwing may convey, assign and transfer all of its rights (not a portion) as "Declarant" in this Master Declaration to an entity related to Brighton or Spurwing, as applicable, which assignee entity must own a portion of the Property, so long as the conveying party records a document executed by Brighton or Spurwing, as applicable, evidencing such conveyance, assignment and transfer of its rights as Declarant to such related entity in the records of Ada County, Idaho. A related transferee of Declarant's rights as described herein may also transfer its rights to a related transferee as described herein.

**Improvements:** All structures and appurtenances to real property, of all kinds and types, including, whether complete, substantially complete or partially complete, including, but not limited to, Buildings, pedestrian pathways, roads, driveways, parking lots, sidewalks, walkways, walls, fences, screens, landscaping, poles, signs, pools, restroom facilities, changing rooms, community center, clubhouse, tennis courts, attached play structures, attached benches, irrigation facilities, storm drainage facilities, sprinklers, and/or lighting, if any. Improvements shall not include those items which are located entirely within the interior of a Building and cannot be readily observed when outside thereof, except for in the case of Common Area owned and/or maintained by the Master Association.

**Initial Construction:** The physical movement of any soil on a Lot with the intent of constructing Improvements on such Lot.

**Limited Assessment:** An Assessment levied by the Master Association upon a Sub-Association and/or an Owner, and/or one or more Lots, but not upon all Lots within the Property, for the purpose of securing payment by the Owner(s) thereof of amounts expended by the Master Association (or another Owner as provided in Section 5.16 for Common Driveways) to correct a condition prohibited, to cure an Owner's breach hereunder, or to operate, maintain and/or replace Improvements to Common Area either requested by a particular Sub-Association and/or which provide more benefit to certain Lots within the Property.

**Lot:** A portion of the Property which is a legally described tract or parcel of land within the Property, or which is designated as a Lot in a Plat, as such Lot may be adjusted from time to time, including any Improvements located on such tract or parcel of land.

**Master Association:** SpurWing Greens Master Association Inc., the Idaho non-profit corporation, comprised of Members, and which exists for the purpose of providing self-government for the Property, and its committees, if any.

**Master Declaration:** This instrument as it may be amended and/or supplemented from time to time.

**Member:** Each Sub-Association created pursuant to a Supplemental Declaration, and as pursuant to its governing corporate documents.

**Mortgage:** Any mortgage or deed of trust or other hypothecation of land located in the Property to secure the performance of an obligation. Unless otherwise specifically provided, the reference to a "Mortgage" in this Master Declaration shall be limited to a first position mortgage or a first position deed of trust on a Lot within the Property.

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

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

**Owner:** A person or persons or other legal entity or entities, including the Declarant, holding fee simple title to a Lot within the Property, except Common Area. The obligations of Owner in this Master Declaration run with the Property and are also personal to the Owner as the Owner of a Lot.

**Plat:** A final subdivision plat covering a portion of the Property, as recorded in the office of the County Recorder, Ada County, Idaho, and as the same may be duly amended from time.

**Project Objectives:** The purpose of this Master Declaration and the Development as described in Article IV.

**Property:** The whole of the Property described in Article I (and Exhibit A) and any additional land annexed thereto pursuant to Article XI, below.

**Regular Assessment:** An assessment levied by the Master Association against Members, Owners, and/or Lots to provide funds to pay the ordinary estimated expenses of the Master Association, including but not limited to, expenses relating to the Common Area.

**SCC:** Spurwing Country Club, Inc., an Idaho corporation, which corporation owns a portion of the Tennis Facilities and the SCC Facilities.

**SCC Documents:** Any and all documents governing the use of the Tennis Facilities and the Social Memberships, as benefitting and/or assigned to Master Association from time to time, and any and all reasonable and non-discriminatory SCC rules and regulations governing the use of the Tennis Facilities and the Social Memberships.

**SCC Facilities:** The SCC pool and clubhouse, and related facilities, as permitted to be used by Owners pursuant to the SCC Documents.

**Special Assessment:** An assessment levied by the Master Association against Members, Owners, and/or Lots, other than a Regular or Limited Assessment.

**Social Memberships:** Memberships in the Spurwing Country Club available to Owners within the Property for use of the SCC Facilities, subject to the reasonable and non-discriminatory SCC rules and regulations governing the use thereof.

**Sub-Association:** A non-profit association which is created for the purpose of implementing a Supplemental Declaration, and/or as otherwise created by the Declarant, with, among other things, the power to create an architectural control committee to manage the portion of Property covered by the Supplemental Declaration, which committee may provide rules and standards for the same from time to time. Upon annexation of additional Property, additional Sub-Associations may be created for implementation of a Supplemental Declaration for such additional Property.

**Supplemental Declaration:** A document containing additional, amended, and/or different conditions, covenants, conditions, restrictions and easements which may relate to a particular tract or parcel of real property within the Property, which are either created and/or approved in writing by the Declarant, as described in this Master Declaration, and is recorded in the official records of Ada County, Idaho. Upon annexation of additional Property, additional Supplemental Declarations may be recorded for such additional Property.

**Tennis Facilities:** Tennis courts and changing facilities located partially on the Property, and partially on adjacent real property owned by SCC.

**Vehicles and Equipment:** Excluding Automobiles, all vehicles, recreational equipment, and/or gardening and maintenance equipment, and/or bicycles, and/or riding or moving devices, or any equipment related to the foregoing, including, but not limited to, trailers, mobile homes, larger than standard-size pickup trucks and/or vans, boats, tractors, campers, garden or maintenance equipment, and toys, all whether operable or inoperable.

## **ARTICLE IV**

### **PURPOSE**

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

- (a) Insuring Owners and Occupants of Buildings of quality of design, development, improvement, use and maintenance as shall protect and enhance the investment and use of all Lots and Improvements;
- (b) The prevention of the erection within the Property of Improvements of improper design or construction with improper or unsuitable materials or with improper quality and method of construction;
- (c) Encouraging and insuring the erection of quality and attractive Improvements appropriately located within the Property to assure visual quality and harmonious appearance and function;

- (d) Securing and maintaining proper set-backs from streets and open areas within the Property and adequate free spaces between Improvements;
- (e) The integration of development of the different Lots by setting common general rules and standards, consistent with the **Master Association** and/or Supplemental Declaration and/or Sub-Association rules and rules and standards existing from time to time; and
- (f) Insuring attractive landscaping and the conservation of existing natural features with minimum adverse impact on the ecosystem.

## **ARTICLE V**

### **PERMITTED USES AND PERFORMANCE RULES AND STANDARDS**

**SECTION 5.01 Use.** Unless otherwise specified in a Supplemental Declaration, Lots shall be used only for residential purposes and such uses as are customarily incidental thereto. As used herein and elsewhere in this Master Declaration, "residential" shall mean the following: use of the Improvements on a Lot for living accommodations by one (1) or more related or unrelated persons, including guests of the principal occupant(s), which guests reside therein on a temporary basis; except that, notwithstanding the provisions of §67-6530 et. seq., Idaho Code, as used in this Master Declaration, neither "residential" or "customarily incidental" uses include, nor shall the same be construed to include, the use of Lot for the operation of a shelter home for persons unrelated to each other or unrelated to the Owner or Occupant, which is hereby expressly prohibited. As used herein, "customarily incidental" shall include, but is not limited to, the following uses, so long as such use is in compliance with all applicable statutes, laws and ordinances: (i) any and all uses by the Master Association of any Lots (including, but not limited to, Common Area uses, and/or development and sales activities relating to the Property, including model homes); and/or (ii) a home office provided that such home office does not result in a consistent increase in traffic and demand within the Property as determined by the Board in its discretion; and/or (iii) a daycare provided that such daycare does not result in a consistent increase in traffic and demand within the Property as determined by the Board in its discretion. Except as may be approved by the Declarant as stated above, no Lot shall be used at any time for a use other than a residential use as defined herein, including, but not limited to, any commercial or business activity.

**SECTION 5.02 Buildings.** All Lots shall be improved with only one (1) dwelling unit, unless: (i) approved in writing by the Declarant as part of a Supplemental Declaration, and (ii) allowed by the zoning ordinance applicable to the Lot. Each dwelling unit shall have an attached or detached fully enclosed garage adequate for a minimum of two (2) standard size cars, with the maximum as determined by its Sub-Association. The minimum square footage of living area within a dwelling unit located on a Lot shall be as provided by the Sub-Association. The square footage of living area shall be based on the finished interior living space at or above the grade of the Lot, exclusive of basement, porches, patios and garage.

**SECTION 5.03 Approval of Use and Plans.** No Improvements shall be built, constructed, erected, placed or materially altered within the Property unless and until the plans, specifications and site plan for the Improvements have been reviewed in advance and approved by its governing Sub-Association in accordance with its Supplemental Declaration.

**SECTION 5.04 Prohibited Buildings/Uses.** No trailer or other vehicle, tent, shack or garage shall be used as a temporary or permanent residence within the Property. Buildings and Lots, if occupied, must be Owner occupied, and no portion of a Building or a Lot thereof may be leased to an Occupant;

however, if an Owner provides sufficient evidence to its Sub-Association of an undue hardship caused by the foregoing restriction on leasing, the Sub-Association may permit a lease in its discretion. No noxious or offensive nuisance shall be conducted on any Lot which may be or become an unreasonable annoyance or nuisance to the Occupants of the Lots within the Property (as determined by applicable law and/or the Board in its discretion) by reason of: (i) activities by any person; (ii) by reason of unsightliness; and/or (iii) the excessive emission of fumes, odors, glare, vibration, gases, radiation, dust, liquid waste, smoke or noise.

**SECTION 5.05 Set-Backs.** No Building or other structure (exclusive of fences and similar structures approved by the governing Sub-Association) shall be located on a Lot nearer to a Lot line than the distance permitted by (i) the ordinances of the City of Meridian, Idaho, applicable to the Property (except as may be modified by a conditional use permit issued by the City of Meridian, Idaho), or (ii) its Sub-Association, whichever requires the greater distance. A Sub-Association shall have the right to stagger the front setbacks of the Lots in order to create a more pleasing appearance and to minimize the negative visual appearance of a uniform building line.

**SECTION 5.06 Antennae.** No exterior radio antennae, television antennae or other antennae, including a satellite dish, shall be erected or maintained on a Lot without the prior approval in writing by the Sub-Association.

**SECTION 5.07 Easements.** There is hereby reserved for the use and benefit of the Declarant and granted for the use and benefit of each Lot, and for the use and benefit of each Owner and Occupant, and/or for the use and benefit of the Master Association, Sub-Associations, and their successors and assigns, as specifically provided for herein, the following easements, under, over, on, through and across the applicable areas of the Property:

- (a) **Public Utilities.** To benefit all of the above, for the purpose of installation and maintenance of public utility facilities of all kinds, including radio and television and transmission cables, the easements so designated on a recorded Plat for any portion of the Property;
- (b) **Water Drainage.** To benefit the Declarant, Master Association and Sub-Associations, for the purpose of water drainage, including "established" drainage described in Section 5.12, retention, recreation or amenity purposes; and to benefit each Owner, not to exceed one foot (1") as between each Lot;
- (c) **Access to Common Areas.** To benefit the Declarant, Master Association, and Sub-Associations for the purpose of access through those portions of Lots contiguous to any Common Area to maintain, repair, replace and restore landscaping and any other Improvements within the Common Area, including, but not limited to, a sprinkler system which may be installed to irrigate any landscaping located on a Common Area as shown on a recorded Plat for the Property;
- (d) **Encroachment.** To benefit the Declarant, Master Association, Sub-Associations, and each Owner, for the purpose of encroachment, reciprocal appurtenant easements of encroachment, not to exceed one foot (1'), as between each Lot and such portion(s) of the Common Area adjacent thereto, or between adjacent Lots, due to the unintentional placement or settling or shifting of the Improvements constructed thereon, which easements of encroachment shall be valid so long as they exist and the rights and obligations of Owners shall not be altered in any way by said encroachments, settling or

shifting; provided, however, that in no event shall a valid easement for encroachment occur due to the willful act or acts of an Owner;

- (e) **Common Driveways.** To benefit the Owners of Lots using a Common Driveway, for the purpose of permitting shared vehicular and pedestrian access, and ingress/egress, over such Common Driveway, and the right to repair, maintain and replace such Common Driveway.
- (f) **Plat.** To benefit all of the above, for the purposes for which they are designated, any additional easements, if any, as shown and designated on a recorded Plat for the Property, or a portion thereof; and
- (g) **Sub-Association Improvements.** To benefit a Sub-Association, upon written approval by the Master Association, which approval may contain conditions, including Limited Assessments and/or Special Assessments by the Master Association, to install Improvements in the Common Area located within its Supplemental Declaration. Any such Improvements on Common Area shall be owned by the Master Association.

Unless otherwise specified herein, or in another recorded document, the easement areas (excluding any equipment or appurtenances owned by the Declarant, the Master Association, a Sub-Association or a utility company located thereon) herein reserved shall be maintained by the Owner of the Lot upon which they are situated.

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

**SECTION 5.08 Lighting.** Each Owner shall install, and maintain in an operative condition such exterior lighting as shall be required and/or permitted by its Sub-Association.

**SECTION 5.09 Roofs.** The type, pitch and roof covering material(s) which shall be required on Buildings within the Property shall be as required and/or permitted by its Sub-Association.

**SECTION 5.10 Animals.** No animals, livestock, birds, insects or poultry of any kind shall be raised, bred, or kept on any Lot, except that not more than two (2) domesticated dogs and/or cats, or other small household pets which do not unreasonably bother or constitute a nuisance to others may be kept, provided that they are not kept, bred or maintained for any commercial purpose. Dogs and other similar pets shall be on a leash when not confined to an Owner's Lot.

**SECTION 5.11 Septic Tanks/Cesspools.** No septic tanks and/or cesspools shall be allowed within the Property.

**SECTION 5.12 Grading and Drainage.** A site plan indicating the proposed grading and drainage of a Lot must be approved by its Sub-Association before Initial Construction. Lot grading shall be kept to a minimum and Buildings are to be located for preservation of the existing grade(s) and any grade(s), berms or swales should be an integral part of the grading design. Water may drain or flow into the drainage swales, if any, located on each Lot or within the public rights-of-way within the Property but otherwise shall be contained on-site on such Lot (meaning it shall not be allowed to drain or flow upon, across or under adjoining Lots), unless an express written easement for such purpose exists. There shall

be no interference with the established drainage pattern over any portion of the Property, unless an adequate alternative provision is made for proper drainage and is first approved in writing by its Sub-Association. For the purposes hereof, "established" drainage is defined as the system of drainage, whether natural or otherwise, which exists at the time the overall grading of any portion of the Property is completed by the Declarant, or that drainage which is shown on any plans approved by its Sub-Association, which may include drainage from a Common Area Lot over any Lot within the Property. The Owner of any Lot, in which grading or other work has been performed pursuant to a grading plan approved by its Sub-Association, shall maintain and repair all graded surfaces, drainage structures, means or devices within the Lot which are not the responsibility of the Master Association or any governmental entity.

After the Initial Construction on a Lot, an Owner shall not change or alter any grading on a Lot or construct or alter any berms or swales on a Lot, including the drainage swales, if any, located in the public right-of-way adjacent to such Lot, which will affect or change the drainage on a Lot or any other Lot within the Property, without the prior written approval of its governing Sub-Association, or, if between two Lots covered under different Supplemental Declarations, the Master Association.

**SECTION 5.13 Maintenance.** The following provisions shall govern the maintenance of Lots and all Improvements thereon:

- (a) Each Owner of a Lot shall maintain all Improvements located thereon in good and sufficient repair and shall keep the Improvements thereon painted or stained, lawns cut, shrubbery trimmed, windows glazed, rubbish and debris removed, weeds cut and otherwise maintain the same in a neat and aesthetically pleasing condition;
- (b) Each Owner of a Lot shall maintain the landscaping planted and installed by the Owner in the landscape strip located between the street curb and the sidewalk adjacent to the Owner's Lot (hereafter "Street Landscape Buffer"), as required by Section 5.24, below, said landscaping to be maintained in a condition comparable to the condition of the landscaping on the Owner's Lot as required herein;
- (c) All damage to any Improvements shall be repaired as promptly as is reasonably possible;
- (d) A Building which is vacant for any reason shall be kept locked and the windows glazed in order to prevent entrance by vandals. Vacant Buildings and unimproved Lots shall not be exempt from the provisions of this Master Declaration;
- (e) All structures, facilities, equipment, objects and conditions determined by the Master Association, in its sole discretion, to be offensive, shall be enclosed within an approved structure or appropriately screened from public view. All trash, debris, garbage and refuse shall be kept at all times in a covered container and all such containers shall be kept on a Lot within an enclosed structure or screened from public view;
- (f) No articles, goods, machinery, materials or similar items shall be stored, kept or maintained on a Lot in the required set-back area along a public or private right-of-way or otherwise kept in the open or exposed to public view;
- (g) Any event or condition on a Lot or adjacent to a Lot if under the control of the Owner, which, in the sole discretion of the Master Association, creates an unsightly or blighting influence, shall be corrected, removed or obstructed from public view, as the case may be, by the Owner of the Lot, notwithstanding the fact that such event or condition may not be

specifically described and/or prohibited in this Master Declaration. If such event or condition is not promptly corrected by the Owner, the Master Association shall have the right to correct the same pursuant to subsection (h), below; and

- (h) In the event that any Owner or Sub-Association shall permit any Improvement, including any landscaping, and/or fencing, which is the responsibility of such Owner to maintain, to fall into disrepair so as to create a dangerous, unsafe, unsightly or unattractive condition, the Board, upon fifteen (15) days prior written notice to the Owner of such Lot, shall have the right to correct such condition, and to enter upon said Lot and into any building or structure thereon, if necessary, for the purpose of correcting or repairing the same, and such Owner shall promptly reimburse the Master Association for the cost thereof. The Owner of the offending Lot shall be personally liable, and such Owner's Lot may be subject to a mechanic's lien for all costs and expenses incurred by the Master Association in taking such corrective action, plus all costs incurred in collecting the amounts due. Each Owner shall pay all amounts due for such work within ten (10) days after receipt of written demand therefor, or the amounts may, at the option of the Board, be levied as a Limited Assessment against said Lot and shall be enforceable in the same manner as set forth in Article VIII of this Master Declaration.

**SECTION 5.14 Mining and Drilling.** No Lot shall be used for the purpose of mining, quarrying, drilling, boring or exploring for or removing water, steam, oil, gas or other hydrocarbons, minerals, rocks, stones, gravel or earth; provided that the Declarant or the Master Association may, by permit, grant, license or easement, allow the drilling for and the extraction of water for use on the Lot.

**SECTION 5.15 Screening of Automobiles, and Vehicles and Equipment.**

- (a) The primary purpose of the garage required on each Lot is for the parking and storage of Automobiles. A minimum of two (2) off-street parking spaces for Automobiles shall be provided on each Lot. No other use of a garage which prohibits or limits the use of a garage for the parking or storage of the number of Automobiles for which it is designed shall be permitted. The Owner shall provide sufficient garage space or other enclosed parking approved by Sub-Association for all Automobiles used by the Occupants of a Lot, which Automobiles, whether operative or non-operative. Automobiles shall be kept within the garage on a Lot, except for the following: (i) actual use; and/or (ii) temporary periods of no more than seventy-two (72) consecutive hours in connection with actual use.
- (b) Vehicles and Equipment shall be kept at all times in an enclosed structure, and at no time shall any such Vehicles or Equipment be parked or stored on a Lot in public view or on a public or private right-of-way within the Property except: (i) when in actual use; and/or (ii) for a temporary period of no more than twenty-four (24) consecutive hours in connection with actual use.

**SECTION 5.16 Driveways.** Driveways, including Common Driveways, must be in the location indicated on a Plat. The Owners of Lots which benefit from a Common Driveway shall share equally in the costs of maintenance, repair, and replacement of such Common Driveway. The determination of whether to incur a cost for maintenance, repair and replacement shall be made by a majority of the Owners benefitting a Common Driveway; provided that such Common Driveway must be maintained to the rules and standards set forth in Section 5.13. If an Owner makes a determination that the aforementioned standard is not being met, the Owner may submit such determination and supporting evidence to the Board for review, and the Board shall hold a hearing upon notice to all affected Owners, and the Board shall determine whether such maintenance, repair and/or replacement is or was necessary to meet the

applicable rules and standards, as determined by the Board in its reasonable discretion. If the Board determines such maintenance, repair and/or replacement is or was necessary, and an Owner who undertakes and pays for the maintenance, repair and/or replacement at reasonable cost and does not receive reimbursement from a benefitted Owner, the Board may, in its sole discretion, levy a Limited Assessment for the benefit of the paying Owner(s) for such amount not paid using the process described in Section 5.13(h), and/or revoke privileges and/or assess fines until such payment is made. If the Board receives payment to release the Limited Assessment, the Board shall transmit such payment to the paying Owner. Additionally, the paying Owners shall have all remedies under this Master Declaration, including injunctive relief, and any and all remedies at law or in equity. This Section is in addition to, not in lieu of, the Master Association's right to enforce this Master Declaration with respect to the Common Driveways.

**SECTION 5.17 Garage Doors.** Garage doors shall be closed except when open for a temporary purpose.

**SECTION 5.18 Exterior Materials and Colors.** All exterior materials, finishes and colors shall be approved by the applicable Sub-Association.

**SECTION 5.19 Vehicles.** The use of Automobiles and Vehicles and Equipment shall be subject to the Sub-Association rules and standards, which may prohibit or limit the use thereof within the Property, provide parking regulations and other rules regulating the same.

**SECTION 5.20 Exterior Energy Devices.** No energy production device including, but not limited to, generators of any kind and solar energy devices, shall be constructed or maintained on any Lot without the prior written approval of the applicable Sub-Association, except for heat pumps or similar appliances shown on the plans approved by the governing Sub-Association.

**SECTION 5.21 Mailboxes.** The US Postmaster and the governing Sub-Association shall have the right to approve mailbox locations and design.

**SECTION 5.22 Signs.** No signs shall be displayed by an Owner to the public view on or from any Lot or in the Common Area except as provided herein. Owners may advertise a dwelling unit and Lot for sale by displaying a single, neat, reasonably sized vacancy sign or "For Sale" sign thereon. Signs advertising the name of the builder may be displayed on a Lot during construction of the Improvements. Lighted, moving or flashing signs for any purposes are prohibited. Directional signs may be used to give directions to traffic or pedestrians or give special instructions. Any directional or identification sign within the Property shall be permitted, provided the same is approved by the Master Association prior to installation. Notwithstanding the foregoing, the Sub-Association shall have the right to adopt rules and standards with respect to signs allowed within its portion of the Property covered by its Supplemental Declaration, which may regulate signs, so long as such regulations are consistent with this Master Declaration.

**SECTION 5.23 Subdividing.** No Lot may be further subdivided, nor may any easement or other interest therein less than the whole be conveyed by the Owner thereof without the prior written consent of its Sub-Association; provided, however, that nothing herein shall be deemed to prevent an Owner from transferring or selling any Lot to more than one person to be held by them as tenants in common, joint tenants, tenants by the entirety, or as community property, or require the approval of a Sub-Association therefor. In addition, the conveyance of an insignificant portion(s) of a Lot to the Owner of the Lot which abuts said conveyed portion for the purpose of correcting a common boundary or other similar purpose shall not be deemed to be a subdividing of a Lot within the prohibition contained herein.

**SECTION 5.24 Fences.** No fence or wall of any kind shall be constructed on a Lot unless the plans and specifications therefor, including the location, design, material and color thereof, have been approved in writing by the Sub-Association prior to the construction or installation. The type, design, material and finish of all privacy fences shall be as specified in the Sub-Association rules and standards, it being the intent of the Declarant that all such privacy fencing shall present, to the extent reasonably practicable, a uniform appearance throughout a portion of the Property covered by a Supplemental Declaration. All fences and/or walls constructed on a Lot shall be in compliance with the ordinances of the City of Meridian, Idaho, applicable to the Property.

**SECTION 5.25 Landscaping.** The following provisions shall govern the landscaping of Lots within the Property:

- (a) The Owner shall prepare a landscape plan and shall submit the same to the applicable Sub-Association, as provided in the applicable Supplemental Declaration. The Sub-Association shall approve said landscape plan prior to the installation and/or construction of landscaping on a Lot. The use of berms and sculptures in planting areas is encouraged. Landscaping of a Lot shall be in accordance with the approved plan;
- (b) Each Owner shall be required to landscape the Street Landscape Buffer (as defined in Section 5.13(b), above), unless prohibited by a governmental authority, which landscaping shall be included in the landscape plan to be submitted to and approved by the applicable Sub-Association. Notwithstanding the foregoing, the Master Association shall have the right, if deemed necessary by the Master Association to assure uniformity in and/or compatibility of the landscaping within the Street Landscape Buffer, to adopt its own rules and standards which shall specify the nature, type, extent and design of the landscaping therein, and, if so adopted, the rules and standards shall be binding upon the Sub-Associations and the Owners;
- (c) All required landscaping on a Lot shall be installed within thirty (30) days after "substantial completion" of the Building on the Lot, with a reasonable extension allowed for weather. As used herein, "substantial completion" of the Building shall mean the Building meets the requirements to obtain a certificate temporary occupancy, regardless of whether such certificate is actually obtained; and
- (d) Each Sub-Association shall set forth the initial minimum landscaping required on each Lot.

**SECTION 5.26 Storm Water Drainage Easements.** Lot 1, in Blocks 1, 2, 8, 9, 11, 15, 18 and 20, and Lot 12, Block 12 are servient to and contain the Ada County Highway District ("ACHD") storm water drainage system. These Lots are encumbered by that certain Master Perpetual Storm Water Drainage Easement recorded on June 1, 2004 as Instrument No. 104068411, Official Records of Ada County, and incorporated herein by this reference as if set forth in full (the "ACHD Master Easement"). The ACHD Master Easement and the storm water drainage system are dedicated to ACHD pursuant to Section 40-2302, Idaho Code. The ACHD Master Easement provides for the operation and maintenance of the storm water drainage system. Any requirement or responsibility of the Master Association to operate, maintain, and/or repair the storm water drainage system shall be assessed as a Regular Assessment by the Master Association. Said easements shall remain free of all encroachments and obstructions (including fencing and trees) which may adversely affect the operation and maintenance of the storm drainage facilities.

**SECTION 5.27 Adoption of ACC Rules/ACC Rules and Standards.**

The Declarant (or in the event of the Declarant's failure to do so, the Master Association), and/or the Sub-Associations, shall have the power to create architectural control committees and rules and standards relating to the planning, construction, alteration, modification, removal or destruction of Improvements within the Property deemed necessary or desirable by the Declarant, the Master Association and/or a Sub-Association, as the case may be, to carry out the purposes of this Master Declaration. Any and all rules and standards created by Declarant, Master Association and/or a Sub-Association, and/or their committees, shall be consistent with the provisions of this Master Declaration.

**SECTION 5.28 Exemption of Declarant.** Nothing herein contained shall limit the right of the Declarant, or Spurwing or Brighton individually, to subdivide or re-subdivide any Lot or portion of the Property, and/or effectuate lot line adjustments and/or surveys, or to grant licenses, reservations, rights-of-way or easements with respect to the Common Area, to utility companies, public agencies or others; or to complete excavation, grading and development to or on any Lot or other portion of the Property owned or controlled by the Declarant, or Spurwing or Brighton individually, or to alter the foregoing and its Development plans and designs, or construct additional Improvements as deemed advisable in the course of Development of the Property. This Master Declaration shall not limit the right of the Declarant at any time prior to acquisition of title to a Lot by an Owner to establish on the Lot additional licenses, restrictions, reservations, rights-of-way and easements to itself, to utility companies and to others, as may from time to time be reasonably necessary. The Declarant need not seek or obtain Master Association or other approval of any Improvements constructed or placed within the Property by the Declarant in connection with the Development of the Property. The Declarant shall be entitled to the non-exclusive use, without charge, of any Common Area within the Property in connection with the marketing of the Lots therein. In addition, the Declarant shall have the right, in connection with the marketing of the Lots, to install, place, display and exhibit such signs, banners and other similar items on the Common Areas on and the Lot(s) owned by the Declarant for such a period of time as is reasonably deemed by the Declarant to be necessary.

**ARTICLE VI**

**SPURWING MASTER ASSOCIATION INC.**

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

**SECTION 6.02 Members.** Each Owner shall be a member of a Sub-Association. Each Sub-Association shall be a Member of the Master Association, unless otherwise provided by law. No Sub-Association shall have more than one membership in the Master Association, but shall have such voting rights as hereafter set forth. A membership in the Master Association shall not be assignable, except to a corporate successor-in-interest of the Member. Membership in the Master Association, through the Sub-Association, shall be appurtenant to and inseparable from a Lot owned by an Owner. A membership or any interest in the Master Association shall not be transferred, pledged or alienated in any way except upon the transfer of title to said Lot and then only to the transferee of title to said Lot. Any attempt to make a prohibited transfer of a membership shall be void and shall not be reflected on the books of the Master Association.

**SECTION 6.03 Classes of Membership.** The Master Association shall have one (1) class of membership. Each Member in the Master Association shall be entitled to one (1) vote. Each Member shall vote as determined by its process described in its Supplemental Declaration for such Master Association matters.

**SECTION 6.04 Board of Directors and Officers.** The affairs of the Master Association shall be conducted by a Board of Directors and such officers as the Directors may elect or appoint, in accordance with the Articles and Bylaws, as the same may be amended from time to time.

**SECTION 6.05 Powers of Master Association.** The Master Association shall have all powers of a non-profit corporation organized under the laws of the State of Idaho subject only to such limitations as are expressly set forth in the Articles, the Bylaws or this Master Declaration. It shall have the power to do any and all lawful things which may be authorized, required or permitted to be done under the Articles, Bylaws or this Master Declaration, and to do and perform any and all acts which may be necessary or proper for, or incident to, the proper management and operation of the Common Area and the performance of the duties of the Master Association and other responsibilities set forth in this Master Declaration, including, but not limited to, the following:

- (a) **Assessments.** The power to determine the amount of and to levy Regular, Special and Limited Assessments on the Sub-Associations, Owners and/or Lots and to enforce payment thereof in accordance with the provisions of this Master Declaration;
- (b) **Right of Enforcement.** The power and authority from time to time in its own name, on its own behalf, or on behalf of any Sub-Association, and Owner(s) who consent thereto, to commence and maintain actions and suits to restrain and enjoin any breach or threatened breach of the Articles, Bylaws, Master Declaration, Master Association rules and standards, or a Plat, and to enforce by mandatory injunction or otherwise, all provisions thereof;
- (c) **Creation of Sub-Associations, and Delegation of Powers.** The authority to create and/or permit, and/or delegate its power and duties, to Sub-Associations, committees, and/or other types of sub-associations, its officers, employees, or to any person, firm or corporation to act as manager, and to pay to such manager such compensation as shall be reasonable, and to create rules and standards. Any Sub-Associations created pursuant to this Section may also create, and delegate its own power and duties to committees as determined by its Supplemental Declaration from time to time;
- (d) **Liability of Board Members and Officers.** Neither any member of the Board nor any officers of the Master Association shall be personally liable to any Sub-Association, Member and/or Owner, or to any other party, for any damage, loss or prejudice suffered or claimed on account of any act or omission of the Master Association, the Board, its officer, a manager or any other representative or employee of the Master Association, provided that said Board member, officer, manager or other person has, upon the basis of such information as was available, acted in good faith without wilful or intentional misconduct;
- (e) **Master Association Rules.** The powers to adopt, amend, and repeal such rules and regulations as the Master Association deems reasonable. Such rules shall govern the use by Owners and Occupants or any other person of Common Area and other property owned or controlled by the Master Association; provided, however, Master Association rules shall not discriminate among Owners and shall not be inconsistent with the Articles, Bylaws or this Master Declaration. A copy of Master Association rules as they may from time to time be adopted, amended or repealed shall be mailed or otherwise delivered to each Owner and Occupant. Upon such mailings said Master Association rules shall have the same force and effect as if they were set forth in and were part of this Master Declaration. In the event of any conflict between an Master Association rule or any

provision of the Articles, Bylaws or this Master Declaration, the conflicting provisions of the Master Association rules shall be deemed superseded to the extent of any such inconsistency;

- (f) **Enforcement/Complaints.** The Master Association is empowered to inspect all Lots to determine whether a Sub-Association and/or an Owner is in compliance with this Master Declaration. The Master Association is empowered to receive from a Sub-Association, Master Association committee or other Owners ("Complainant") complaints in writing involving alleged violations of the Master Declaration, the Articles, Bylaws and/or Master Association rules and standards. The Master Association, in its discretion, may use its powers to enforce a violation against an Owner, or a Sub-Association in which the Owner's Lot is located.
- (g) **Emergency Powers.** The Master Association, or any person authorized by the Master Association, may enter onto any Lot or into any Building or other structure on a Lot in the event of any emergency involving illness or potential danger to life or property or when necessary in connection with any maintenance or construction for which it is responsible. Such entry shall be made with as little inconvenience to the Occupants as practicable and any damage caused thereby shall be repaired by the Master Association unless said entry was necessitated by a condition caused by the Owner or Occupant;
- (h) **Licenses, Easements and Rights-of-Way.** The power to grant and convey to any third party such licenses, easements, rights-of-way or fee title in, on, through, under or of the Common Area and/or the Property as may be necessary or appropriate for the orderly maintenance, preservation and enjoyment thereof and for the preservation of health, safety, convenience and welfare of the Owners, for the purpose of constructing, erecting, operating or maintaining:
  - (i) Underground lines, cables, wires, conduits and other devices for the transmission of any utility or other service;
  - (ii) Public sewers, storm drains, water drains and pipes, water systems, sprinkling systems, water, heating and gas lines or pipes; and
  - (iii) Any similar public or quasi-public improvements or facilities; and
- (i) **Fiscal Year.** The Board shall have the right to elect a fiscal year for the Master Association instead of a calendar year for budget, Assessment and accounting purposes.

**SECTION 6.06 Duties of Master Association.** In addition to the powers delegated to it by the Articles, Bylaws and this Master Declaration, without limiting the generality thereof, the Master Association or its authorized agents, if any, shall have the obligation to conduct all business affairs of common interest to all Owners and to perform each of the following duties, unless otherwise delegated to another party as permitted herein, including, but not limited to, a Sub-Association, in a Supplemental Declaration or otherwise:

- (a) **Operation and Maintenance of Common Area.** Unless otherwise delegated to a Sub-Association in this Master Declaration and/or a Supplemental Declaration, perform, or provide for the performance of, the operation, maintenance and management of the Common Area, if any, owned or controlled by the Master Association, including the repair and replacement of property or improvements thereon damaged or destroyed by casualty

loss, the maintenance, repair and replacement of any facilities, if any, installed by the Declarant, and the maintenance, management, repair or replacement all other property owned or controlled by the Master Association, all in compliance with all laws, plans, regulations, statutes and ordinances and agreements affecting the Property, whether recorded or unrecorded;

- (b) **Taxes and Assessments.** Pay all real and personal property taxes and assessments levied against the Common Area owned or controlled by the Master Association or against the Master Association and/or any property owned by the Master Association. Such taxes and assessments may be contested or compromised by the Master Association; provided, however, that they are paid or a bond insuring payment is posted prior to the sale or the disposition of any property to satisfy the payment of such taxes. In addition, the Master Association shall pay all other taxes, federal, state or local, including income or corporate taxes, levied against the Master Association in the event that the Master Association is denied the status of a tax exempt corporation;
- (c) **Utilities.** Acquire, provide and/or pay for water, sewer, refuse collection, electrical, telephone, gas and other necessary services for the Common Area owned or controlled by the Master Association;
- (d) **Insurance.** Obtain, from reputable insurance companies authorized to do business in the State of Idaho and maintain in effect the following policies of insurance:
  - (i) Fire insurance, including those risks embraced by coverage of the type now known as the broad form "All Risk" or special extended coverage endorsement on a blanket agreement amount basis for the full insurable replacement value of all improvements, equipment, fixtures and other property located within the Common Area owned or controlled by the Master Association, including such equipment, fixtures and other property not located in the Common Area, if the same are used or necessary for the use of the Common Area or easement areas under the control of the Master Association, except to the extent carrying such insurance is assignable to a Sub-Association, in which the Master Association may, in its discretion, designate such Sub-Association carry such insurance on the areas maintained by the Sub-Association;
  - (ii) Comprehensive public liability insurance insuring the Master Association, the Board, officers, the Declarant and the individual Owners and agents and employees of each of the foregoing against any liability incident to the ownership and/or use of the Common Area owned by the Master Association or easement areas under the control of the Master Association. The limits of liability of such coverage shall be as determined by the Board of Directors;
  - (iii) If elected by the Board, full coverage directors and officer's liability insurance in an amount determined by the Board;
  - (iv) Such other insurance, including workmen's compensation insurance to the extent necessary to comply with all applicable laws and indemnity, faithful performance, fidelity and other bonds as the Board shall deem necessary or required to carry out the Master Association's functions or to insure the

Master Association against any loss from malfeasance or dishonesty of any person charged with the management or possession of any Master Association funds or other property;

- (v) The Master Association shall be deemed a trustee of the interests of all Owners in any insurance proceeds paid to it under such policies, and shall have full power to receive their interests in such proceeds and to deal therewith;
  - (vi) If required by the insurance companies, the same insurance as stated above for the Sub-Associations and their boards and officers; and
  - (vii) Insurance premiums for the above insurance coverage shall be deemed a common expense to be included in the Regular Assessments levied by the Master Association.
- (e) **Administration Fees - Costs.** Pay to the Declarant (which, for purposes of this Section, "Declarant" shall include any entity managing the Property as appointed by the Declarant), so long as the Declarant manages the Master Association, all actual out-of-pocket costs paid or incurred by the Declarant in the management and administration of the affairs of the Master Association plus an administrative fee equal to current market fees as are typically charged for such management and administration for similar properties in Meridian, Idaho, and which administrative fee shall be compensation to the Declarant for the services provided to the Master Association; and upon the termination of rights of the Declarant, pay such fee to a third party manager as determined by the Master Association upon a majority vote electing such third party manager;
- (f) **Identification Signs.** Maintain, repair and replace all permanent entry and special identification signs for the Property, whether the same is located within or without the boundaries of the Property;
- (g) **Rule Making.** Make, establish, create, amend and repeal Master Association rules and standards;
- (h) **Enforcement of Restrictions and Rules.** Perform such other reasonable acts, whether or not expressly authorized by this Master Declaration, to enforce any of the provisions of this Master Declaration and the Master Association rules for which enforcement is desirable as determined by the Master Association.

**SECTION 6.07 Cost of Maintenance, Repairs and Replacement.** The cost of the maintenance, repairs and replacements of the Improvements located on a Common Area, the drainage swales, if any, located thereon within the public right(s)-of-way within the Property, or any other Improvement, property or facility required by this Master Declaration to be maintained, repaired or replaced by the Master Association and the continuing operational expenses in connection therewith, including taxes, shall be paid by the Master Association from the funds of the Master Association obtained by Regular or Special Assessments against the Lots within the Property which are served thereby. Such costs and expenses (hereafter "cost and expenses") shall be apportioned among the Lots within the Property served thereby on an equal basis. The Master Association shall have the right to establish a reserve account to implement the purposes of this Master Declaration, and the Board shall have the right to assess each Lot an amount to be included in a Regular or Special Assessment. The amount of said Regular or Special Assessment shall be determined by the Board. The Board shall have the right to place all funds collected

in an interest-bearing account in an appropriate financial institution. In the event the Master Association does not have adequate funds to pay the cost and expenses deemed by the Master Association to be required, the deficiency shall be assessed to each Lot, on an equal basis, as a Special Assessment.

**SECTION 6.08 Budgets and Financial Statements.** Financial statements for the Master Association shall be regularly prepared and copies distributed to each Member as follows:

- (a) A pro forma operating statement (budget) for each fiscal year shall be distributed at the Master Association's annual meeting; and
- (b) The Master Association, or its agent, shall cause to be prepared and delivered at the Master Association's annual meeting, a balance sheet as of the last day of the Master Association's fiscal year and an annual operating statement reflecting the income and expenditures of the Master Association for that fiscal year.

**SECTION 6.09 Effective Date.** The provisions of this Article VI shall become operative upon the creation by the Declarant of the Master Association and the conveyance to said Master Association of fee simple title to the Common Area within the Property. Until the creation and organization of the Master Association, the Declarant shall have the right to exercise all of the powers of the Master Association set forth in this Master Declaration.

## **ARTICLE VII ASSOCIATION PROPERTY**

**SECTION 7.01 Use.** Each Sub-Association and each Owner of a Lot, his family, licensees, invitees, lessees and contract purchasers who reside on the Lot, shall be entitled to use the Common Area, subject to the following:

- (a) **Articles, etc.** The provisions of the Articles and Bylaws of the Master Association applicable to the Lot, this Master Declaration and applicable Supplemental Declaration and the rules, regulations and rules and standards promulgated thereunder. Each Sub-Association and Owner, in using the Master Association properties, shall comply with the same;
- (b) **Suspension of Rights.** The right of the Master Association to suspend the rights to use properties owned by it (except roads and other means of access by an Owner) for any period during which any Assessment against a Sub-Association, and/or Assessment against that Owner's Lot remains unpaid; and for any infraction or published rules and regulations of the Master Association;
- (c) **Dedications.** The right of the Master Association to dedicate or transfer all or any part of properties owned by it to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed by the Board, so long as said transfer does not diminish the security of the Mortgagees on any Lot or Common Area in the Property;
- (d) **Conveyance of Common Area.** Except as provided in subsection (c), above, no portion of the Common Area shall be conveyed by the Master Association unless the Board of Directors of the Master Association determines that such conveyance is in the best interests of the Property, which determination shall be made following a regular or special meeting of the Members of the Master Association at which meeting the proposed

conveyance is presented by the Board of Directors and the Members have the opportunity to present testimony in support of or against such proposed conveyance;

- (e) **Mortgage of Common Area.** No portion of the Common Area shall be mortgaged by the Master Association without the prior approval of at least two-thirds (2/3rds) of the Members, which approval may be obtained in writing or by a vote of the Members at a meeting called for such purpose.
- (f) **Tennis Facilities.** Each Owner understands that the use of the Tennis Facilities are governed by additional agreements with SCC, as may be supplemented by SCC and/or Declarant from time to time, and that the duration of such use of the Tennis Facilities by the Owners may not be perpetual.
- (g) **Social Memberships.** Each Owner understands that the Social Memberships are governed by additional agreements with SCC, as may be supplemented by SCC and/or Declarant from time to time, which such Owner will be required to meet to use such Social Membership, and that the duration of such use of the Social Memberships by the Owners may not be perpetual.

**SECTION 7.02 Liability for Damage.** In the event that any maintenance, repair or replacement of all or any portion of the any Improvements located on the Property, and/or located thereon within the public right(s)-of-way within the Property, or any other Improvement, property or facility required by this Master Declaration to be maintained, repaired or replaced by the Master Association, is performed by the Master Association as a result of the willful or negligent act or omission of a Sub-Association, an Owner or Occupant, or a family member, guest or invitee of an Owner or Occupant, the cost of such maintenance, repair or replacement shall be reimbursed by said Sub-Association and/or Owner to the Master Association and/or the Master Association may assess the cost of the same against said Sub-Association and/or Owner and the Owner's Lot as a Limited Assessment, as provided in this Master Declaration and may be collected as provided in Article IX, below.

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

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

## **ARTICLE VIII** **ASSESSMENTS**

**SECTION 8.01 Covenant to Pay Assessments.** The Sub-Association when created, and each Owner hereby, and by acceptance of a deed to a Lot, covenants and agrees to pay when due all Regular, Special and Limited Assessments or charges made by the Master Association. All such Assessments, together with interest, costs and reasonable attorneys' fees which may be incurred in collecting the same, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such

Assessment is made, or made upon the Sub-Association on account of such Owner or Lot regardless of the sale of such Lot. Additionally, all such Assessments shall also be the personal obligation of the Owner of such Lot at the time when the Assessment becomes due and payable. No Sub-Association or Owner may waive or otherwise avoid liability for any Assessment by non-use of the Common Area or by abandonment of his or her Lot.

**SECTION 8.02 Regular Assessments.** Regular Assessments shall be made by the Master Association in such amounts and at times and intervals deemed appropriate by the Board. The Regular Assessments shall be based upon advance estimates of cash requirements as determined by the Board for the maintenance and operation of the Common Area and all easement areas, if any, owned or controlled by the Master Association and for the performance by the Master Association of its other duties and responsibilities. Such estimates may include, but shall not be limited to, expenses of management, taxes and special assessments of local governmental units, premiums for all insurance which the Master Association is required or permitted to maintain hereunder, landscaping and care of grounds, lighting, water charges, trash collection, sewerage charges, repair and maintenance, legal and accounting fees, and any deficit remaining from previous periods and the creation of a reserve, surplus and/or sinking fund(s).

The monthly Regular Assessment shall be set by the Board from time to time.

**SECTION 8.03 Special Assessments.** In addition to Regular Assessments, the Master Association may levy at any time a Special Assessment payable over such period as the Board may deem appropriate for the following purposes:

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

**SECTION 8.04 Limited Assessments.** In addition to Regular and Special Assessments, Owners shall pay Limited Assessments as follows:

- (a) **Maintenance and Repair.** The Master Association shall have the power, but not the obligation, to incur expenses for maintenance and repair of any Lot or the maintenance, repair, completion or removal of, any Improvement on a Lot, including the Street Landscape Buffer (as defined in Section 5.13(b), above), and a Common Driveway (as defined in Section 5.13) if such maintenance and repair, completion or removal is necessary to protect the Common Area or any other portion of the Property, and/or the existence of the condition of the Lot and/or Improvement reflects anything other than a first-class residential subdivision and/or in violation of Section 5.13, as determined by the Board in its discretion, and if the Sub-Association and/or Owner of said Lot has failed or refused to perform said maintenance or repair within a reasonable timeframe after written notice of the necessity thereof has been delivered by the Board to said Owner. The Board shall levy a Limited Assessment against the Sub-Association on behalf of such Lot, and/or Owner of the Lot owned by said Owner to pay for the cost of such maintenance and

repair, completion and/or removal, and any other cost or expense, including attorneys' fees, arising out of or incident to such maintenance and repair, completion, and/or removal and the Assessment therefore;

- (b) **Correction of Violations.** In addition to maintenance and repair, the Board, upon the failure or refusal of an Owner to correct a violation of this Master Declaration, shall have the power to correct any such violation on a Lot or any Improvement on a Lot, and incur costs necessary in connection therewith. The cost of such corrective action, together with interest, related expenses and attorneys' fees shall be assessed and collected as set forth in this Article IX and Article X of this Master Declaration; and
- (c) **Limited Purpose.** The Master Association shall have the power to levy a Limited Assessment against a Sub-Association on behalf of a Lot, and/or Owners and Lots for any limited special purpose which the Board believes necessary with respect to certain Lots but not an appropriate expense for payment by the Master Association.

**SECTION 8.05 Commencement of Regular Assessments.** Regular Assessments of the Master Association against the Sub-Association on behalf of a Lot and/or each Lot shall commence the date of the closing of the first sale of a Lot by the Declarant (in this case, whichever entity comprising Declarant is the owner) to an Owner. Provided, however, that any Lot owned by the Declarant shall be assessed a Regular Assessment not exceeding ten percent (10%) of the amount assessed against Lots owned by other Owners. If the Declarant pays all or any portion of the expenses of the Master Association in excess of the amount assessed to Lots owned by the Declarant, such excess amounts so paid shall constitute either (i) a prepayment of Assessments (Regular and Special) to become due and payable on the Lots owned by the Declarant within the Property, or (ii) a loan by the Declarant to the Master Association, which loan, without interest, shall be repaid by the Master Association to the Declarant from the funds of the Master Association which are available to make such repayment. Nothing herein contained shall obligate the Declarant to pay any Assessment with respect to a Lot within a separately platted phase or subdivision within the Property in which the Declarant owns all of the Lots.

**SECTION 8.06 Uniform Rate of Assessment.** Except as expressly provided to the contrary in this Master Declaration, Regular and Special Assessments of the Master Association shall be fixed at a uniform rate for all Lots.

**SECTION 8.07 Assessment Due Date.** The due dates for Regular, Special and Limited Assessments shall be the first day of the first month of each calendar quarter, unless some other due date is established by the Board. In its sole discretion, the Master Association may bill only the Sub-Association for Assessments applicable to its portion of the Property, or may bill each Owner directly. Each installment of an Assessment shall be delinquent if not paid within fifteen (15) days after the due date thereof. Nothing herein contained shall prohibit the Board from requiring that Special or Limited Assessments be paid in a lump sum instead of installments.

**SECTION 8.08 Interest and Penalties.** Any Regular, Special or Limited Assessment levied by the Master Association on Lots, if not paid when due, shall bear interest at an annual rate as shall be set by the Board from time to time, or if none is so set, at an annual rate of twelve percent (12%). Such interest shall commence on the date the Assessment becomes due and payable. In addition to the interest charge the Board may, in accordance with rules and regulations promulgated by it, impose additional fines or charges for the failure of an Owner to timely pay any Assessment when due. The right of the Board to charge interest or impose additional fines or charges shall be in addition to, and not in lieu of, any other right of enforcement or sanction available to the Board in the event of non-payment of an Assessment.

**SECTION 8.09 Estoppel Certificate.** The Master Association, upon not less than twenty (20) days prior written request, shall execute, acknowledge and deliver to the party making such request a statement in writing stating whether or not to the knowledge of the Master Association, the Sub-Association and/or a particular Owner is in default under the provisions of this Master Declaration and further stating the dates to which Assessments have been paid by said Owner, it being intended that any such certificate delivered pursuant to this Section may be relied upon by any prospective purchaser or Mortgagee of said Lot, but reliance on such certificate may not extend to any default as to which the signer shall have had no actual knowledge. The Master Association shall have the right to charge a reasonable fee for the certification herein provided.

**SECTION 8.10 Notice and Quorum Requirements.** Notwithstanding anything to the contrary contained in either the Articles or the Bylaws of the Master Association, written notice of any meeting called for the purpose of levying a Special Assessment described in Section 8.03, shall be sent to the Sub-Association and each Owner whose Lot is subject to the levy of such Special Assessment not less than ten (10) nor more than fifty (50) days in advance of the meeting. The presence of sixty percent (60%) of the Owners, who have voting rights in the Master Association, either in person or by proxy, shall constitute a quorum. If the required quorum is not present, the meeting may be rescheduled by the Board for a date not later than sixty (60) days after the date of initial meeting and at the rescheduled meeting the presence of ten percent (10%) of the Owners who have voting rights in the Master Association, either in person or by proxy, shall constitute a quorum. No written notice of the rescheduled meeting shall be required.

## **ARTICLE IX**

### **ENFORCEMENT OF ASSESSMENTS**

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

**SECTION 9.02 Creation of Assessment Liens.** There is hereby created a continuing claim of lien with power of sale on each and every Lot to secure payment of any and all Assessments levied against any and all Lots within the Property pursuant to this Master Declaration, whether such Assessment is billed to the Sub-Association on behalf of such Lot and/or billed directly to the Owner of such Lot, together with interest thereon and all costs of collection which may be paid or incurred by the Master Association in connection therewith, including reasonable attorneys' fees. Said lien shall be prior and superior to all other liens (including Mortgages) or claims created subsequent to the recordation of this Master Declaration except only for: (i) valid tax and special assessment liens on Lots in favor of any governmental unit assessing authority; (ii) a lien for all sums unpaid and secured by a first Mortgage duly recorded in Ada County, Idaho, including all unpaid obligatory advances to be made pursuant thereto, in which the first Mortgagee has been given and made in good faith and for value, which first Mortgage is of record as an encumbrance against such Lot prior to the recordation of an Assessment claim of lien; and (iii) labor or materialmen's liens, if the same are prior and superior by reason of applicable law. Except as expressly provided in this Section 9.02, the sale or transfer of any Lot shall not affect the Assessment lien provided for herein, nor the creation thereof by the recordation of a claim of lien, on account of the Assessments becoming due whether before, on, or after the date of such sale or

transfer, nor shall such sale or transfer diminish or defeat the personal obligation of any Owner for delinquent Assessments as provided for in this Master Declaration.

All other lien holders acquiring liens on any Lot after recordation of this Master Declaration shall be deemed to consent that such liens shall be inferior liens to the lien for Assessments levied by the Master Association, whether or not such consent is specifically set forth in the instruments creating such other liens.

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

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

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

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

- (a) The name and address of said Mortgagee;
- (b) A legal description of the Lot subject to the lien of the Mortgage by Lot, Block and Subdivision;
- (c) The name and address of the Owner;
- (d) The date the lien of the Mortgage was filed of record in Ada County, Idaho, and the instrument number thereof;

- (e) The maturity date of the obligation secured by said Mortgage lien;
- (f) A copy of a title Insurance report evidencing that the Mortgagee is the holder of a first Mortgage or the beneficiary of a first Deed of Trust;
- (g) The signature of the Mortgagee or authorized agent.

In the event the Master Association shall be required to notify a Mortgagee as herein provided, the Master Association shall assess the Owner who is delinquent an amount for such notification and such charge shall be a cost of collection secured by the Assessment lien described in Section 9.02, above, as such amount is determined by the Board from time to time.

**SECTION 9.07 Non-Exclusive Remedy.** The remedies set forth in this Article or elsewhere in this Master Declaration shall not be deemed to be an exclusive remedy and the Master Association may pursue all other remedies available at law or in equity.

## **ARTICLE X ENFORCEMENT OF PROVISIONS**

**SECTION 10.01 Right to Enforce.** Willful or negligent act or omission of an Owner, and/or Occupant, and/or Sub-Association, to comply with this Master Declaration, or deviate from, or violate the Master Declaration and/or the rules and standards of the Master Association or a Master Association committee, shall subject such Member, Owner and/or Occupant to enforcement actions pursuant to this Master Declaration and as determined by the Master Association from time to time, including, but not limited to, revocation of Property privileges, and/or fines. In the case of fines, and/or costs incurred by the Master Association to correct such Member, Owner and/or Occupant's acts or omissions, the Master Association may levy Limited Assessments against the Sub-Association, Lots in proportionate amounts on behalf of the Sub-Association, and/or the Lot associated with such Owner and/or Occupant, based on the procedure provided herein for such Limited Assessments.

**SECTION 10.02 Complaints.** In the event the Board receives a written complaint of a violation or deviation from the Master Declaration, and/or Master Association, rules and standards, from a Sub-Association, Owner, or Master Association committee ("Complainant"), it shall do the following: (i) first confirm the alleged violation involves a Master Declaration issue, rather than a Supplemental Declaration issue to be resolved by a Sub-Association; and (ii) if so confirmed, determine the validity of such complaint by inspection or otherwise. Should the Board determine that there has been a deviation or a violation, it shall promptly issue a notice in writing thereof to the party causing the complaint ("Subject Party"), Sub-Association associated with the Subject Party if applicable, and to the Complainant, which notice shall specify the particulars of the deviation or violation and shall demand that the Subject Party conform to either or both of the following directives:

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

Should the Board determine that the complaint involves a deviation or violation of a Supplemental Declaration (which shall be addressed by the applicable Sub-Association), or there has been no deviation

or violation, it shall promptly issue a notice of such determination to the alleged Subject Party, the Sub-Association and the Complainant.

**SECTION 10.03 Hearing.** A Subject Party served with a written notice of deviation or violation by the Board, or a Complainant shall have the right to request and be heard at a hearing in front of the Board, as determined appropriate by the Board, for the purpose of presenting facts and information. Such hearing must be requested by such party within ten (10) days from the date the written notice of any decision by the Board, or the date of written notice of deviation or violation by the Board, is mailed to the Subject Party and Complainant as evidenced by the records of the Board. The hearing shall be held within ten (10) days following receipt by the Board of the request for a hearing, unless the Board shall extend said period of time because of the unavailability of the Board, as applicable. A hearing may be continued by the Board for the purpose of further investigation or to receive additional evidence. Upon completion of the hearing, the Board shall issue a written opinion to the involved parties within ten (10) business days thereafter which opinion shall set forth the findings of the Board with respect to the matters at issue and shall affirm, modify or rescind its previous decision as contained in the original written notice. If the Board incurs any costs or expenses in connection with the investigation, processing or hearing on a matter involving a deviation or violation, including the costs of retaining a consultant(s) to advise the Board and legal fees, such costs shall be paid by the Complainant unless a Subject Party is found to be in violation after such hearing, in which event such Subject Party shall pay all such costs. The payment of such costs shall be enforceable as provided in Section 10.05, below.

**SECTION 10.04 Appeal.** Either a Subject Party or a Complainant shall have the right to appeal to the Board a decision of the Board on an application with respect to the conditions imposed thereon or a denial thereof, reached following a hearing held pursuant to Section 10.03, above, provided, however, that neither a Subject Party nor a Complainant shall be entitled to such an appeal with respect to deviations or violations unless said Subject Party or Complainant has participated in the hearing.

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

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

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

At the hearing the Subject Party, and Complainant, if any, together with their representatives and other witnesses, shall present their position to the Board. The order of presentation and the evidence to be admitted shall be solely within the discretion of the Board provided, however, that the Subject Party and the Complainant, if any, shall have the opportunity to question and cross-examine witnesses presented by the other. The Subject Party and the Complainant, if any, will have the opportunity to

present final argument consistent with rules adopted by the Board for such hearing process. Any party may be represented by an attorney at any hearing by the Board.

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

If the Board incurs any costs or expenses in connection with the investigation, processing or hearing on an appeal, including the costs of retaining a consultant(s) to advise the Board and legal fees, such costs shall be paid by the party(s) filing the appeal unless the decision by the Board constitutes a substantial reversal of the prior decision of the Board, in which event such costs shall be paid by the Master Association. If the party filing the appeal is obligated to pay such costs, payment of the same shall be enforceable as provided in Section 10.05, below.

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

Notwithstanding anything to the contrary herein, any informal decisions, actions, or investigations by the Board on a verbal complaint shall be within the sole discretion of the Board, and such decisions, actions or investigations shall not waive any and all processes provided herein by the Board, a Subject Party, or a Complainant, or supersede any requirements for a written complaint herein.

**SECTION 10.05 Enforcement.** The Board shall be authorized on behalf and in the name of the Master Association to commence such legal or equitable proceedings as are determined by it to be necessary or proper to correct or enjoin any activity or condition existing within the Property, the continuation of which violates the provisions of this Master Declaration, and/or delegate in writing such enforcement to a Sub-Association.

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

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

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

**SECTION 10.06 Additional Damages.** In addition to the costs and expenses to be reimbursed by the Subject Party or the Complainant, all other costs, expenses and damages determined by the Board to be proximately caused by the deviation or violation or the costs and expenses incurred by the Master Association to correct the same shall be assessed as a Limited Assessment against the Subject Party, and the Lot owned by or associated with the Subject Party and/or the complaint, or the Complainant and/or the Lot owned by associated with the Complainant, as the case may be, which Limited Assessment shall be due and payable at such time or in such installments as determined by the Board, in its sole discretion. The right of the Board to enforce said Limited Assessment shall be the same as provided in Article IX, above.

**SECTION 10.07 Non-Exclusive Remedy.** The right of the Master Association to levy a Limited Assessment as described above, shall not be deemed to be an exclusive remedy of the Master Association and it may, in its sole discretion, without waiver of any other legal or equitable remedy, pursue enforcement of the lien of said Limited Assessment(s), proceed to collect any amount due directly from the Owner and/or pursue any other remedies available at law or in equity.

**SECTION 10.08 Private Rights.** The Master Association shall not mediate or litigate a "private dispute" between Owners. As used herein, a "private dispute" shall mean a dispute to which either of the following apply: (i) the Master Association has determined that there is no violation of this Master Declaration, or other Property or Master Association documents; and/or (ii) in the sole discretion of the Board, the Board determines that the neither the interests of the Master Association or a substantial number of the Owners would be benefitted by the Board and/or the Master Association's mediation and/or litigation of such dispute.

**SECTION 10.09 Inspection Fee(s).** The Board shall have the right to charge an Owner an inspection fee (hereafter "Inspection Fee") as determined by the Board from time to time for each inspection of the Improvements constructed on a Lot if the initial inspection, which shall be performed by the Board without cost to the Owner, reveals that the Improvements do not comply with the approved application or is deviating therefrom or is violating this Master Declaration, and an additional inspection(s) is required to assure such compliance. Any collection of Inspection Fee(s) so charged by the Board to an Owner shall be enforceable as a Limited Assessment.

## **ARTICLE XI ANNEXATION**

**SECTION 11.01 Annexation - Master Declaration.** The Declarant may bring any additional property within the provisions of this Master Declaration by the Declarant, at any time, without the approval of any Owner, the Master Association, or any Sub-Association. To annex additional property, prior to such annexation, the Declarant shall record an amendment to this Master Declaration which shall specify the annexation of the additional property, signed by both entities constituting the Declarant, and which may supplement this Master Declaration with additional, amended or different covenants and restrictions applicable to the annexed property, as the Declarant may deem appropriate, and may delete or modify as to such annexed property such covenants as are contained herein which the Declarant deems not appropriate for the annexed property. Declarant's amendment of this Master Declaration to annex additional property as authorized by this Section shall be controlled by the provisions of this Section, and is expressly excluded from the requirements of Section 12.02.

**SECTION 11.02 Annexation - Supplemental Declaration.** Any additional property approved by the Declarant and annexed into the Master Association pursuant to Section 11.01 above, shall also be brought by the annexing party within the provisions of either: (i) a new recorded Supplemental Declaration; or (ii) within an existing recorded Supplemental Declaration, both of which require approval in

writing of the Declarant. No Supplemental Declaration may be recorded upon a portion of Property or other real property unless and until such real property has first been annexed within the provisions of the Master Declaration. No Lot contained in annexed property may be sold until such property is also covered under a recorded Supplemental Declaration. Upon such recordation of a Supplemental Declaration, any new Sub-Association shall become a Member of the Master Association with all rights, privileges and obligations as all other Members as provided in this Master Declaration. Any new Supplemental Declaration shall include provisions addressing meeting all required obligations of Sub-Associations pursuant to this Master Declaration, including, but not limited to, creation of the Sub-Association, creation of an architectural control committee with rules and standards consistent with this Master Declaration, and maintenance of Common Area, as determined by the Master Association, and provisions regarding the voting process for Master Association matters. After initial approval by the Declarant, if provided in such Supplemental Declaration, a Supplemental Declaration may be amended without Declarant's further approval so long as such amendment complies and is consistent with any approval requirements of Declarant, this Master Declaration and all Master Association documents, including any rules and standards, any plat affecting the Property, and any and all laws applicable.

**SECTION 11.03 De-Annexation.** The Declarant shall have the right to delete all or a portion of the Property from the coverage of this Master Declaration and the jurisdiction of the Master Association, and any Supplemental Declaration, so long as the Declarant is the Owner of all of the property to be de-annexed and, provided further, that an appropriate amendment to this Master Declaration is recorded in the office of the Ada County Recorder.

## **ARTICLE XII MISCELLANEOUS**

**SECTION 12.01 Term.** This Master Declaration and all covenants, conditions, restrictions and easements contained herein shall run until December 31, 2040, unless amended as hereafter provided. After December 31, 2040, said covenants, conditions, restrictions and easements shall be automatically extended for successive period of ten (10) years each, unless extinguished by a written instrument executed by the Owners of at least three-fourths (3/4) of the Lots covered by this Master Declaration and such written instrument is recorded with the Ada County Recorder.

**SECTION 12.02 Amendment.** This Master Declaration may be amended as follows:

- (a) **By Declarant.** Until all Lots within the Property are conveyed by the Declarant, the Declarant may amend this Master Declaration by executing an amendment and recording it in the records of Ada County, Idaho.
- (b) **By Members.** The provisions of this Master Declaration, other than this Section, may be amended by an instrument in writing, approved by at least 50% of the of the total of the votes cast by the Members either in person or by proxy at a meeting of the Members duly held for such purpose, as certified by the President and Secretary of the Master Association. Any amendment to this Section 12.02(b) shall require approval by at least 66.67% of the total of the votes cast by the Members either in person or by proxy at a meeting of the Members duly held for such purpose, as certified by the President and Secretary of the Master Association. Amendments complying with this Section 12.02 shall be effective upon recordation with the Ada County Recorder.
- (c) **By Necessity.** Declarant shall have the exclusive right, power and authority to amend this Master Declaration, or any of the Property or Development documents, at any time in its sole discretion, if such amendment is: (i) necessary to bring any provision into

compliance with any applicable laws, statutes, rules, plans, ordinances, or other agreements governing the Property; (ii) necessary to enable any reputable title insurance company to issue title insurance coverage for the Lots; (iii) required by an institutional or governmental lender or purchaser of mortgage loans, to enable such lender or purchaser to make or purchase mortgage loans on the Lots; (iv) necessary to enable any governmental authority or reputable private insurance company or lender to make insure or purchase mortgage loans on the Lots; and/or (v) otherwise necessary to satisfy the requirements of any governmental or quasi-governmental authority or applicable federal, state or local statute, ordinance, and/or law.

- (d) **Books and Records.** All financial accounting books and records, and meeting minutes of the Board and Master Association, and any other records determined by the Board in its sole discretion, shall be made available for inspection and copying by any Owner or by his duly authorized representative, at any reasonable time and for a purpose reasonably related to his interest as a member in the Master Association, or at such other place and time as the Board shall prescribe.

**SECTION 12.03 Non-Waiver.** The failure of the Declarant, the Board, a Sub-Association, or any Owner in any one or more instances to insist upon the strict performance of any of the covenants, conditions, restrictions, easements or other provisions of this Master Declaration or to exercise any right or option contained herein, or to serve any notice or to institute any action, shall not be construed as a waiver or relinquishment for the future of such covenant, condition, restriction, easement or other provision, but the same shall remain in full force and effect.

**SECTION 12.04 Acceptance.** Each Owner of a Lot, each purchaser of a Lot under a contract or agreement of sale and each holder of an option to purchase a Lot, by accepting a deed, contract of sale or agreement or option, accepts the same subject to all of the covenants, conditions, restrictions, easements and other provisions set forth in this Master Declaration and agrees to be bound by the same. Upon creation of such Sub-Association, each Sub-Association accepts its obligations and responsibilities pursuant to this Master Declaration and agrees to be bound by the same.

**SECTION 12.05 Indemnification of Board Members.** Each member of the Board shall be indemnified by the Members and Owners against all expenses and liabilities, including attorneys' fees, reasonably incurred by or imposed in connection with any proceeding to which said member may be a party or in which said member may become involved, by reason of being or having been a member of the Board, or any settlement thereof, whether or not said person is a member of the Board at the time such expenses or liabilities are incurred, except in such cases wherein said person is adjudged guilty of willful misfeasance or malfeasance in the performance of his or her duties; provided that in the event of a settlement, the indemnification shall apply only when the Board approves such settlement and reimbursement as being in the best interest of the Master Association, Members or Owners. This Section shall extend to and apply also for the indemnification of the Declarant during the initial period of operation of the Master Association or prior thereto during the period the Declarant is exercising the powers of the Master Association.

**SECTION 12.06 Notices.** Any notice permitted or required to be delivered as provided in this Master Declaration shall be in writing and shall be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered seventy-two (72) hours after the same has been deposited in the United States mail, postage prepaid, properly addressed. Any notice to a Sub-Association shall be deemed delivered if and when delivered to any member of its board of directors and/or an officer.

**SECTION 12.07 Interpretation.** The provisions of this Master Declaration and any Supplemental Declaration shall be liberally construed to effectuate the Project Objectives and shall be construed and governed by the laws of the State of Idaho. Unless the context requires a contrary construction, the singular shall include the plural and the plural the singular; and the masculine, feminine or neuter shall include the masculine, feminine or neuter. All captions and titles used in this Master Declaration are intended solely for convenience of reference and shall not affect that which is set forth in any of the provisions hereof.

**SECTION 12.08 Severability.** Notwithstanding the provisions of the preceding Section, each of the provisions hereof shall be deemed independent and severable and the invalidity or unenforceability of any provision or portion thereof shall not affect the validity or enforceability of any other provision.

**SECTION 12.09 Not a Partnership.** The provisions of this Declaration are not intended to create, nor shall they be in any way interpreted or construed to create a joint venture, partnership or any other similar relationship between the Owners, including the Declarant.

**SECTION 12.10 No Third Party Beneficiary Rights.** This Declaration is not intended to create, nor shall it be in any way interpreted or construed to create, any third party beneficiary rights in any person not an Owner or an occupant, unless otherwise expressly provided herein.

**SECTION 12.11 Injunctive Relief.** In the event of any violation or threatened violation by any person of any of the covenants, easements and restrictions contained in this Master Declaration, the Declarant, the Master Association, and/or any or all of the Owners shall have the right to enjoin such violation or threatened violation in a court of competent jurisdiction. The right of injunction shall be in addition to all other remedies set forth in this Master Declaration or provided by law.

**SECTION 12.12 Breach Shall Not Permit Termination.** It is expressly agreed that no breach of this Master Declaration shall entitle any Owner to terminate this Master Declaration, but such limitation shall not affect in any manner any other rights or remedies which such Owner may have hereunder by reason of any breach of this Master Declaration. Any breach of this Master Declaration shall not defeat or render invalid the lien or security of any lien holder made in good faith for value, but this Master Declaration shall be binding upon and be effective against any Owner whose title is acquired by foreclosure, trustee's sale or otherwise.

**SECTION 12.13 Attorney's Fees.** In the event any person initiates or defends any legal action or proceeding to interpret or enforce any of the terms of this Master Declaration, the prevailing party in any such action or proceeding shall be entitled to recover from the losing party in any such action or proceeding the prevailing party's reasonable costs and attorney's fees, including the same with respect to an appeal.

**SECTION 12.14 Force Majeure.** The period of time provided in this Master Declaration for the performance of any act shall be extended for a period or periods of time equal to any period or periods of delay caused by strikes, lockouts, fire or other casualty, the elements or acts of God, refusal or failure of governmental authorities to grant necessary permits and approvals for the act (the parties agreeing to use reasonable diligence to procure the same), or other causes, other than financial, beyond their reasonable control.

**SECTION 12.15 Mediation.** In the event of a deadlock between the two entities comprising the Declarant, and/or an even number of Members in the Association, all involved parties agree to submit to mediation with an agreed upon mediator to equitably resolve the dispute. Each party involved agrees to

pay for its own attorneys fees and costs in such mediation, and to pay for the services of such mediator in equal shares.

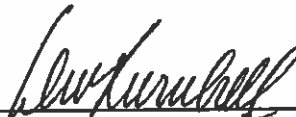
**SECTION 12.16 Water Rights Appurtenant to Subdivision Lands.** Declarant reserves unto itself any and all water rights appurtenant to the Property, and accordingly, Owners of any and all Lots shall have no right, title or interest in any of said water or water rights.

[END OF TEXT]

IN WITNESS WHEREOF the Declarant has executed this Master Declaration as of the day and year first above written.

DECLARANT:

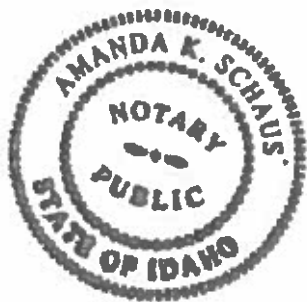
SWG BRIGHTON LLC, an  
Idaho limited liability company

By   
David W. Turnbull, 

STATE OF IDAHO     )  
                              ) ss:  
County of Ada        )

On this 1<sup>st</sup> day of October, 2010, before me, the undersigned, a Notary Public in and for said State, personally appeared **DAVID W. TURNBULL**, known or identified to me to be the  of **SWG BRIGHTON LLC**, an Idaho limited liability company, the company that executed the foregoing instrument or the person who executed the foregoing instrument on behalf of said company, and acknowledged to me that such company executed the same.

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



  
Notary Public for Idaho , ID  
My Commission Expires: 1.24.11

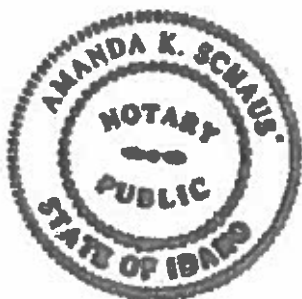
SPURWING GREENS LLC, an  
Idaho limited liability company

By: CL Anderson  
Name: Christopher L. Anderson  
Its: Managing Member

STATE OF IDAHO     )  
                              ) ss:  
County of Ada        )

On this 14th day of October, 2010, before me, the undersigned, a Notary Public in and for said State, personally appeared Christopher L. Anderson, known or identified to me to be the Managing Member of SPURWING GREENS, LLC, an Idaho limited liability company, the company that executed the foregoing instrument or the person who executed the foregoing instrument on behalf of said company, and acknowledged to me that such company executed the same.

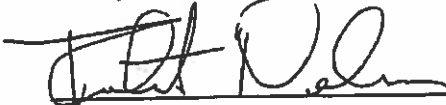
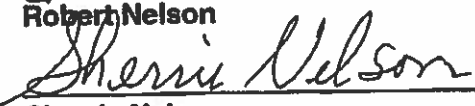
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



AKS  
Notary Public for Idaho Bain, ID  
My Commission Expires: 1.24.11

THE UNDERSIGNED, AS ADDITIONAL OWNERS WITHIN THE PROPERTY, CONSENT AND APPROVE ALL TERMS AND CONDITIONS OF THIS MASTER DECLARATION:

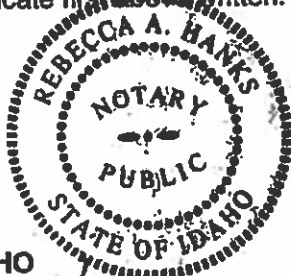
Lot 2, Block 15, Jayker Subdivision:

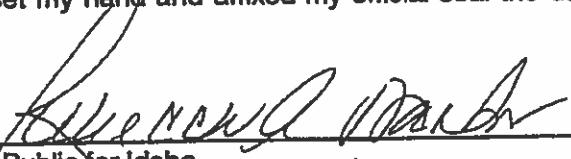
  
Robert Nelson  
  
Sherrie Nelson

STATE OF IDAHO )  
 ) ss:  
County of Ada )

On this 5th day of October, 2010, before me, the undersigned, a Notary Public in and for said State, personally appeared **ROBERT NELSON**, known or identified to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

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



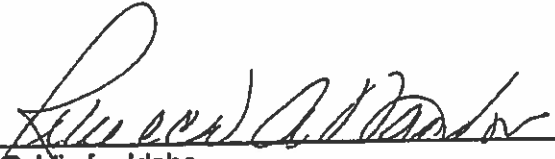
  
Notary Public for Idaho  
My Commission Expires: 10.6.2011

STATE OF IDAHO )  
 ) ss:  
County of Ada )

On this 5th day of October, 2010, before me, the undersigned, a Notary Public in and for said State, personally appeared **SHERRIE NELSON**, known or identified to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

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



  
Notary Public for Idaho  
My Commission Expires: 10.6.2011

Lot 7, Block 8, Jayker Subdivision:

THE MARRS COMPANY

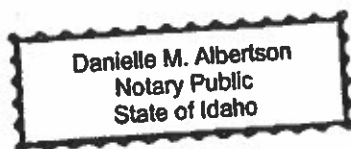
By: [Signature]  
Name: Michael P MARRS  
Its: President

STATE OF IDAHO )

County of Ada ) ss:

On this 6 day of October, 2010, before me, the undersigned, a Notary Public in and for said State, personally appeared Michael MARRS known or identified to me to be the President of **THE MARRS COMPANY**, an Idaho corporation ~~limited liability company~~, the company that executed the foregoing instrument or the person who executed the foregoing instrument on behalf of said company, and acknowledged to me that such company executed the same. <sup>MPY</sup>

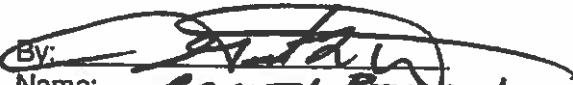
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



[Signature]  
Notary Public for Idaho  
My Commission Expires: 05-15-2013

Lot 8, Block 8, Jayker Subdivision:

SNOW CHERRY, LLC

By: 

Name: GRANT L. PETERSON

Its: MANAGING MEMBER

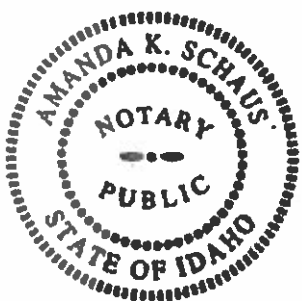
STATE OF IDAHO )

) ss:

County of Ada )

On this 15th day of October, 2010, before me, the undersigned, a Notary Public in and for said State, personally appeared Grant L. Peterson, known or identified to me to be the Managing Member of SNOW CHERRY, LLC, the limited liability company that executed the foregoing instrument or the person who executed the foregoing instrument on behalf of said company, and acknowledged to me that such company executed the same.

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

A handwritten signature in cursive script, appearing to read "A. Schaus".

Notary Public for Idaho

My Commission Expires:

10/15

1.24.11

Lot 22, Block 2; Lot 20, Block 8; Lot 3, Block 15, Jayker Subdivision

BRIGHTON HOMES LLC,  
an Idaho limited liability company

By: [Signature]  
Name: David W. Turnbull  
Its: Member

State of Idaho           )  
                                  : ss.  
County of Ada         )

On this 18th day of October, in the year of 2010, before me the undersigned notary public, personally appeared David W. Turnbull, known or identified to me to be the Member of Brighton Homes LLC, the limited liability company that executed the instrument or the person who executed the instrument on behalf of said limited liability company, and acknowledged to me that such limited liability executed the same.



[Signature]  
Notary Public for Idaho  
Residing In: Bur ID  
My Commission expires: 1.24.11

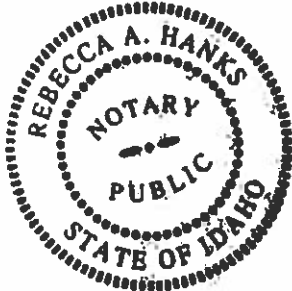
Lot 2, Block 8; Lot 3, Block 8, Jayker Subdivision

CLYDE DEVELOPMENT, INC.,  
an Idaho corporation

By: [Signature]  
Name: James Clyde  
Its: President

State of Idaho           )  
                                  : ss.  
County of Ada           )

On this 18th day of October, in the year of 2010, before me the undersigned notary public, personally appeared James Clyde, known or identified to me to be the President of Clyde Development, Inc., the corporation that executed the instrument or the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.



[Signature]  
Notary Public for Idaho  
Residing In: Bozeman  
My Commission expires: 10.6.2011

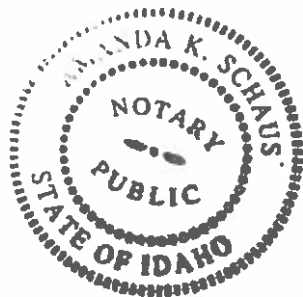
**Lot 24, Block 8; Lot 12, Block 8, Jayker Subdivision:**

BLACKSTEAD BUILDING CO., INC.,  
an Idaho corporation

By: [Signature]  
Name: Rod Blackstead  
Its: President

State of Idaho       )  
                              : ss.  
County of Ada       )

On this 18th day of October, in the year of 2010, before me the undersigned notary public, personally appeared Rod Blackstead, known or identified to me to be the President of Blackstead Building Co., Inc. the corporation that executed the instrument or the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.



[Signature]  
Notary Public for Idaho  
Residing In: Bonanza, Idaho  
My Commission expires: 1.24.11



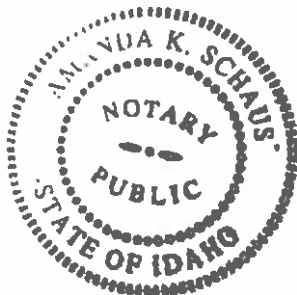
**BRIGHTON INVESTMENTS, LLC**

By: [Signature]  
Name: David W. Turnbull  
Its: President/Managing Member

STATE OF IDAHO     )  
                                  ) ss:  
County of Ada        )

On this 18th day of October, 2010, before me, the undersigned, a Notary Public in and for said State, personally appeared David W. Turnbull, known or identified to me to be the Managing Member of **BRIGHTON INVESTMENTS, LLC**, the limited liability company that executed the foregoing instrument or the person who executed the foregoing instrument on behalf of said company, and acknowledged to me that such company executed the same.

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



[Signature]  
Notary Public for Idaho 6th ID  
My Commission Expires: 1-24-11

MDC, LLC, an Idaho limited liability company, hereby approves of, and consents to this Master Declaration and any Supplemental Declarations, and/or amendments to such Master Declaration and any Supplemental Declaration, and hereby unconditionally subordinates any interest it has in the Property and any documents relating to any portion of the Property, as a mortgagee or beneficiary or otherwise, all of the terms and conditions of the Master Declaration, and Supplemental Declaration, as recorded in the records of Ada County, Idaho, from time to time.

MDC, LLC, an Idaho limited liability company

By: [Signature]  
Name: Douglas Carnahan  
Its: Managing Member

STATE OF IDAHO     )  
                                  ) ss:  
County of Ada        )

On this 19 day of October, 2010, before me, the undersigned, a Notary Public in and for said State, personally appeared Douglas Carnahan, known or identified to me to be the Managing Member of MDC, LLC, an Idaho limited liability company, the company that executed the foregoing instrument or the person who executed the foregoing instrument on behalf of said company, and acknowledged to me that such company executed the same.

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

Cara Vines  
Notary Public for Idaho  
My Commission Expires: 2/28/2011

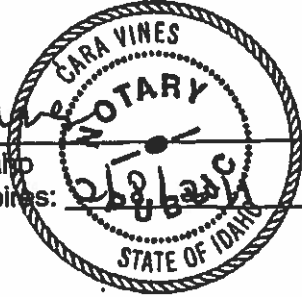


**EXHIBIT A**  
**DESCRIPTION OF PROPERTY**

***Engineering North West, LLC***

13601 W. McMillan Rd., Ste. 102-248

Boise, Idaho 83713

(208) 376-5000 • Fax (208) 376-5556

Project No. 09-027-01

Date: October 18, 2010

**JAYKER SUBDIVISION**  
**ALL LOTS & BLOCKS DESCRIPTION**

A parcel of land being Jayker Subdivision – Phase 1, as same is shown on the Plat thereof recorded in Book 101 of Plats at Page 13341 of Ada County Records, located in Section 22, T. 4 N., R. 1 W., B.M., Meridian, Ada County, Idaho, more particularly described as follows:

Block 1: Lot 1

Block 2: Lots 1 thru 22

Block 3: Lot 1

Block 4: Lots 1 thru 4

Block 5: Lots 1 thru 3

Block 6: Lots 1 thru 3

Block 7: Lot 1

Block 8: Lots 1 thru 24

Block 9: Lot 1

Block 10: Lot 1

Block 11: Lots 1 thru 25

Block 12: Lots 1 thru 16

Block 13: Lots 1 thru 4

Block 14: Lot 1

Block 15: Lots 1 thru 15

Block 16: Lots 1 thru 33

Block 17: Lot 1

Block 18: Lot 1

Block 19: Lot 1

Block 20: Lot 1

Block 21: Lot 1

Block 22: Lot 1

Block 23: Lots 1 and 2.

END

**PREPARED BY:**  
**Engineering North West, LLC**



**James R. Washburn, PLS**