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Index to: CONDITIONS COVENANTS & RESTRICTIONS

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# DECLARATION OF COVENANTS CONDITIONS AND RESTRICTIONS

## DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS AND RESERVATION OF EASEMENTS FOR CRYSTAL VIEW II

**THIS DECLARATION** is made and executed this 15<sup>TH</sup> day of MAY, 2024, by Schweitzer Mountain Properties LLC, an Idaho limited liability company (“SMP” and/or “Declarant”).

### WHEREAS:

A. Declarant is the Owner of the real property located in Bonner County, Idaho, consisting of CRYSTAL VIEW II filed in Book 21 of Plats, Page 78, Instrument No. 1033421, records of Bonner County, Idaho (the “Property”).

B. The Property is a part of the Schweitzer Mountain Community, an Expandable Planned Unit Development, and is subject to all of the terms, covenants, conditions, restrictions, rules and regulations relating thereto, including but not limited to the Declaration of Covenants, Conditions and Restrictions of the Schweitzer Mountain Community recorded June 18, 1990 as Instrument No. 376609, records of Bonner County, Idaho, and any amendments thereto (the “Master Declaration”), and any rules and regulations of the Schweitzer Mountain Community Association, Inc. (the “Master Association”). Capitalized terms used but not otherwise defined herein shall have the meanings provided in the Master Declaration.

C. The Property has been approved for division into twenty-one (21) lots for building development (the “Lot” or “Lots”) and four (4) tracts (the “Tract” or “Tracts”), together with associated open spaces, private roadways, common areas, facilities and amenities as described more fully herein and/or shown on the Map.

D. By this Declaration, Declarant desires to subject the Property, the Lots, the Tracts, and the Improvements to the additional restrictions, covenants, reservations, easements, liens and charges set forth herein for the benefit of the Property and for each owner of a Lot thereon.

**NOW, THEREFORE**, in order to promote the best use and maintenance of the Property and each Lot, Tract, and Dwelling thereon, and the most appropriate development and improvement of each Lot, Declarant hereby declares that the Property and each Lot, Tract and Dwelling located thereon shall be held, conveyed, mortgaged, encumbered, leased, rented, used, occupied, sold and improved subject to the covenants, conditions, restrictions, reservations, liens, easements and charges set forth herein, all of which shall be deemed to be imposed upon and to run with the land.

### ARTICLE I DEFINITIONS

**Defined Terms.** Unless the context clearly indicates otherwise, certain terms as used in this Declaration shall have the meanings set forth in this Article I.

**1.1 Articles.** The Articles of Incorporation of the Association as amended from time to time.

**1.2 Assessment.** That portion of the cost of maintaining, improving, repairing, operating, and managing the Property, including without limitation the private roads, easements, trails and landscaping, which is to be paid by the Lot Owners as determined by the Association under this Declaration. Assessments may be designated as Regular Assessments or Special Assessments, as those terms are more specifically defined in Article VIII of this Declaration.

**1.3 Association or Maintenance Association.** Crystal View Owners Association, Inc., an Idaho nonprofit corporation organized to be the Association referred to herein, and as a Maintenance Association in accordance with and as defined in the Master Declaration (which may sometimes also be referred to as a Sub-Association or Neighborhood Association), the members of which shall be the Owners of Lots in the Project.

**1.4 Board or Board of Directors.** The governing body of the Association.

**1.5 Bylaws.** The Bylaws of the Association as amended from time to time. The initial Bylaws shall be as adopted by the initial members of the Board of Directors.

**1.6 Common Area.** The real property and improvements located within the Project, other than the Tracts, Lots and Dwellings, but including without limitation the open space, private roads (including bridges and underpasses in the event the same should ever be abandoned by the owner and/or operator of the Ski Resort), open parking areas (if any), common easements, snow removal and/or drainage areas, and similar amenities, all of which shall be owned and/or maintained by the Association for the common use and enjoyment of all Owners. Additionally, the Common Area shall include any other property conveyed to the Association for the use and benefit of the Owners of all Lots in the Project, all as described herein and/or designated as such on the Map, or acquired in the future.

**1.7 Common Areas.** The Common Area, Limited Common Area and/or Common Facilities, sometimes referred to herein collectively as the "Common Areas."

**1.8 Common Expenses.** The actual and estimated expenses of maintenance, improvement, repair, operation, insurance and management of the Common Areas, expenses of administration of the Association by the Board, and all sums designated Common Expenses by or pursuant to the Project Documents.

**1.9 Common Expense Fund.** The fund to be maintained by the Association for the payment of Common Expenses. All assessments shall be deposited into the Common Expense Fund upon collection.

**1.10 Common Facilities.** All furniture, furnishings, equipment, facilities and other property (real, personal or mixed) and interests therein at any time leased, acquired, owned, used, maintained or held by the Association for the use and benefit of the Owners and all other property (real, personal or mixed) hereafter purchased in accordance with this Declaration with monies from



the Common Expense Fund. Common Facilities shall be deemed to be part of the Common Area, except to the extent otherwise expressly provided in this Declaration.

**1.11 Declarant.** Schweitzer Mountain Properties LLC, an Idaho limited liability company, and any successors or assigns who come to stand in the same relationship to the Project as their predecessor.

**1.12 Declaration.** This Declaration of Covenants, Conditions and Restrictions and Reservation of Easements, as it may be amended from time to time.

**1.13 Dwelling.** Any building or portion thereof within the Project which is designed and intended for use and occupancy as a residence.

**1.14 Limited Common Area.** Those portions of the Common Area in the Project, if any, designated by the Declarant or the Association for use of a certain Owner or Owners to the exclusion, limitation or restriction of other Owners.

**1.15 Lot.** Any residential Lot shown on the recorded Plat of the Project created for the construction of a private Dwelling. The term "Lot" does not include any Tract nor any portion of the Common Area other than the Limited Common Area, if any, specifically appertaining to that Lot.

**1.16 Map.** Crystal View II, recorded in Book 21 of Plats, Page 78, Instrument No. 1033421, and any amendments thereto hereafter recorded in the office of the County Recorder for Bonner County, Idaho.

**1.17 Master Association.** Schweitzer Mountain Community Association, Inc., an Idaho nonprofit corporation which administers the Master Declaration and the rules and regulations of the Schweitzer Mountain Community Planned Unit Development, of which the Property is a part.

**1.18 Master Declaration.** The Declaration of Covenants, Conditions and Restrictions of the Schweitzer Mountain Community, an Expandable Planned Unit Development, filed with the Recorder of Bonner County, Idaho, and any amendments thereto.

**1.19 Member.** A person entitled to membership in the Association as provided herein.

**1.20 Mortgage.** Includes a recorded mortgage, deed of trust, real estate contract, or other instrument creating a security interest in any Lot.

**1.21 Mortgagee.** Includes a mortgagee, beneficiary or holder of a deed of trust, real estate contract vendor, or other holder of a mortgage on any Lot, and any successor to the interest of such person or entity under such mortgage.

**1.22 Owner.** The person or persons owning in fee simple a Lot in the Project, as such ownership is shown by the records of the County Recorder of Bonner County, Idaho, as well as any person or persons purchasing a Lot under contract by which the purchaser has the beneficial



ownership and right to possession before such contract is fully performed and legal title conveyed of record. The term "Owner" shall not refer to any Mortgagee unless such Mortgagee has obtained title in fee simple to a Lot pursuant to judicial or non-judicial action, including, without limitation, a foreclosure proceeding or any deed or other arrangement in lieu of foreclosure.

**1.23 Private Roads.** Those portions of the Common Area consisting of private streets and roadways providing access from the Lots to the public right of way, to be owned in fee and maintained by the Association.

**1.24 Project Documents.** This Declaration, the Map, the Articles and Bylaws of the Association, and any design guidelines, architectural or other rules promulgated by the Declarant or the Association pursuant to this Declaration or the Articles or Bylaws, as the same may be amended from time to time.

**1.25 Property or Project (synonymous).** The real property covered by this Declaration, all easements, rights and appurtenances belonging thereto, and all improvements erected or to be erected thereon, all constituting Crystal View II.

## **ARTICLE II ASSOCIATION, ADMINISTRATION, MEMBERSHIP AND VOTING RIGHTS**

**2.1 Organization of Association.** The Association is or shall be incorporated as a nonprofit corporation operated for the benefit of the Owners and the Property in accordance with Chapter 30, Title 30, and Chapter 32, Title 55, Idaho Code, under the name of CRYSTAL VIEW OWNERS ASSOCIATION, INC.

**2.2 Duties and Powers.** The duties and powers of the Association are those set forth in this Declaration, the Articles and Bylaws, and those powers delegated to it by the Master Association, together with the general and implied powers of a nonprofit corporation and a homeowners association, generally to do any and all things that a corporation organized under the laws of the State of Idaho may lawfully do which are necessary or proper in operating for the peace, health, comfort, safety and general welfare of its Members, subject only to the limitations upon the exercise of such powers as are expressly set forth in this Declaration, the Articles and Bylaws. Without limiting the generality of the foregoing, the primary functions of the Association shall be the maintenance, operation and insurance of the Common Areas.

**2.3 Membership.** The Owner of a Lot shall automatically, upon becoming the Owner of the Lot, be a Member of the Association, and shall remain a Member thereof until such time as their ownership ceases for any reason, in accordance with the Articles and the Bylaws of the Association.

**2.4 Transfer of Membership.** Membership in the Association shall not be transferred, pledged, or alienated in any way, except upon the transfer of ownership of the Lot to which it is appurtenant and then only to the new Owner. Any attempt to make a prohibited transfer is void.

Each membership shall be transferred automatically to any subsequent purchaser by conveyance of that Lot.

**2.5 Classes of Membership; Voting Requirements.** The Association shall have one (1) class of voting membership, with the Owner of each Lot entitled to one (1) vote for each Lot owned. The Project shall be deemed to include twenty-one (21) Lots for voting purposes.

**2.6 Membership Meetings.** Regular and special meetings of the Members of the Association shall be held with the frequency, at the time and place, and in accordance with the provisions of the Bylaws of the Association.

**2.7 Board of Directors.** The affairs of the Association shall be managed by a Board of Directors, which shall be established and which shall conduct regular and special meetings according to the provisions of the Bylaws of the Association.

**2.8 Use of Agent.** The Board of Directors, on behalf of the Association, may contract with a professional management agent for the performance of or securing the performance of maintenance and repair and for conducting other activities on behalf of the Association, as may be determined by the Board.

**2.9 Master Association.** The Association is or shall be a Maintenance Association within and a member of the Master Association pursuant to the provisions of the Master Declaration.

### **ARTICLE III COMMON AREAS**

**3.1 Common Area.** The Common Area shall include all real property and improvements within the Project designated as Common Area, open space, private roads, snow-dump easements, common easements (including without limitation the Trail System Easement shown on the Map), drainage easements, garbage collection areas, and any other land which may be conveyed to and accepted by the Association, all of which are hereby dedicated to the common use and enjoyment of the Owners of Lots. The Common Area shall be owned, operated, maintained, and insured by the Association, for the use and benefit of Owners of Lots in the Project, subject to reasonable rules and regulations enacted according to the Bylaws. Each Lot Owner, through membership in the Association, shall have a nonexclusive right to use the Common Area in accordance with the purposes for which it is intended, without hindering the exercise of or encroaching upon the lawful rights of any other Lot Owners.

Common Areas shall have a permanent character and shall not be altered except with the written consent of not less than two-thirds (2/3) of the voting power of the Association, expressed in an amendment to this Declaration duly recorded.

**3.2 Limited Common Area.** Notwithstanding the foregoing, Limited Common Area, while under the ownership and control of the Association for maintenance and other purposes as set forth herein, shall be set aside for the exclusive use of the Owners of those Lots to which such



Limited Common Area appertains. As of the date of this Declaration, no Limited Common Area has been so set aside.

**3.3 Common Facilities.** The Association shall further operate, repair and maintain any and all Common Facilities of the Project, whether or not such facilities lie within the Common Area or Limited Common Area. The Association shall have the right to enter any Lot or the Dwelling located thereon for the purpose of performing repairs or maintenance on such Common Facilities. Except in the case of an emergency, the Association shall give not less than 48 hours' notice of its intent to enter upon a Lot or Dwelling for the purpose of inspecting, maintaining or repairing such Common Facilities.

**3.4 Reservation of Easement by Declarant.** Notwithstanding the transfer of the Common Areas to the Association, the Declarant hereby reserves in itself and its successors-in-interest and assigns, an easement (and the right to grant further easements) over and onto the Common Areas for ingress to and egress from the Project for the purpose of completing improvements thereon or for the performance of necessary construction, maintenance, or repair work, and for ingress and egress to and from adjacent property in connection with the development, use, and occupancy thereof.

**3.5 Transfer of Title to Common Area.** It is the intent of the Declarant by this Declaration to grant and dedicate all Common Areas to the Association for the use, benefit and enjoyment of the Owners in the Project. Such grant and dedication shall be effective upon recordation of this Declaration and the formation and due constitution of the Association, at which time title to the Common Areas shall be deemed vested in the Association, SUBJECT TO, RESERVING AND CONFIRMING unto the Declarant its successors, representatives and assigns, the easements and other rights and interests set forth in the Master Declaration; the easements and other rights and interests established or set forth on the subdivision plat or plats of which the Property is a part; and any other easements, rights, or interests established or provided for under Idaho law.

**3.6 Partition of Common Areas Prohibited.** Except in the event of dissolution of the Association and conveyance of fee title to the Common Areas to the Owners as tenants in common pursuant thereto, no Owner shall bring any action for, or is entitled to, partition or division of any part of the Common Areas without the unanimous consent of all Owners. This restriction is necessary to preserve the rights of the Owners with respect to the operation, management, use and enjoyment of the Common Areas.

**3.7 Damage by Member.** Each Member shall be liable to the Association for any damage to the Common Areas not fully reimbursed to the Association by insurance, if the damage is sustained because of the negligence or willful misconduct of the Member, his guests, tenants, or invitees, or any other persons deriving their right and easement of use and enjoyment of the Common Areas from the Member or their respective family and guests, both minor and adult. However, the Association, acting through the Board, reserves the right to determine whether any claim shall be made upon the insurance maintained by the Association, and the Association further reserves the right to levy a Special Assessment equal to the increase, if any, in insurance premiums directly attributable to the damage caused by the Member or the person for whom the Member



may be liable as described above. The cost of correcting the damage, to the extent not reimbursed to the Association by insurance, shall be a Special Assessment against the Owner and the Owner's interest in their Lot and Dwelling, and may be enforced as provided hereby for the enforcement of any other Assessment.

#### **ARTICLE IV EASEMENTS AND OTHER RIGHTS**

**4.1 Easements for Maintenance, Cleaning and Repair.** Some of the Common Areas are or may be located upon the Lots or may be conveniently accessible only through the Lots. The Association, its agents, contractors, and subcontractors, shall have the irrevocable right to have access to each Lot and Dwelling and to all Common Areas from time to time during such reasonable hours as may be necessary for the maintenance, cleaning, repair, or replacement of any Common Areas or for making emergency repairs at any time therein necessary to prevent damage to the Common Areas. Such entry shall be made upon reasonable notice, except in the event of emergency, and with as little inconvenience to the Owners or occupants as practicable.

**4.2 Easements for Utilities and Drainage.** Declarant expressly reserves for the benefit of itself and its successors in interest and assigns, including the Association, easements over and under the entire Property (together with the right to grant and transfer the same in whole or in part) for the installation, repair and maintenance of utility lines, services and facilities, including but not limited to sanitary sewer, water, electric, natural gas, telephone, cable, fiber optic, drainage facilities, walkways and landscaping as may be hereafter required to serve the Property. No structure, planting, or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may damage, interfere with, or change the direction of flow of drainage facilities in the Project. The area of each Lot which includes utilities and drainage facilities shall be continuously maintained by the Owner of such Lot.

**4.3 Right to Ingress, Egress and Support.** Subject to the rules and regulations of the Association, each Owner shall have the right to ingress and egress over, upon and across the Common Areas as necessary for access to such Owner's Lot and to any Limited Common Area appurtenant to such Lot. Such rights shall be perpetual and shall be appurtenant to and pass with title to each Lot.

**4.4 Association's Right to Use Common Area.** The Association shall have an easement to make such use of the Common Areas as may be necessary or convenient to perform the duties and functions that it is obligated or permitted to perform pursuant to this Declaration.

**4.5 Easement for Completion of Project.** Declarant shall have a transferable easement over and on the Common Areas for the purpose of completing construction of the Project and making improvements therein as shown on the Map and for the purpose of doing all things reasonably necessary or appropriate in connection therewith.

**4.6 Easements Deemed Created.** All conveyances of Lots within the Project hereafter made, whether by Declarant or otherwise, shall be construed to grant and reserve the easements

provided for herein, even though no specific reference to such easements appears in any such conveyance.

**4.7 Easements Reserved in Master Association.** The easements created and/or reserved herein are in addition to and not in lieu of those created and/or reserved in the Master Declaration. In the event of a conflict, the provisions of the Master Declaration shall control.

## **ARTICLE V RESTRICTIONS ON USE**

**5.1 Master Declaration.** Except as otherwise provided herein, the use of the Property and each Lot and Dwelling thereon is subject to the Restrictions on Use set forth in the Master Declaration and any rules and regulations of the Master Association adopted pursuant thereto.

**5.2 Maintenance Association Use Restrictions.** The Association may adopt use restrictions for the Property in addition to those prescribed by the Master Declaration, the Master Association, and this Declaration, to facilitate the performance of its powers and duties under this Declaration.

**5.3 Use of Individual Lots.** All Lots and Dwellings shall be used for residential purposes only. Nightly, or longer, leasing or renting of a Dwelling is permitted. All leases or rental agreements for a Dwelling shall be in writing and subject to the requirements of this Declaration, the Bylaws, the Map, and such rules, regulations and procedures as may be promulgated by the Board.

**5.4 Private Roads and Parking.** All Private Roads located within the Project are for the use of the Members on an equal basis, subject to reasonable rules and regulations duly adopted by the Board. No parking is allowed on the Private Roads.

**5.5 Rules and Regulations.** Each Owner, and any guest, tenant, lessee, or invitee, shall comply strictly with all rules and regulations adopted by the Association for the governance of the Lots and the Dwellings, as such rules and regulations may be modified, amended and construed by the Association in the reasonable discretion of the Board, so long as they do not conflict with this Declaration or the Bylaws of the Association, or with the Master Declaration and Bylaws of the Master Association.

**5.6 No Warranty of Enforceability.** While Declarant has no reason to believe that any of the restrictive covenants contained in this Article V or elsewhere in this Declaration are or may be invalid or unenforceable for any reason or to any extent, Declarant makes no warranty or representation as to the present or future validity or enforceability of any such restrictive covenant. Any Owner acquiring a Lot in the Property in reliance on or more of such restrictive covenants shall assume all risks of the validity and enforceability thereof and, by acquiring the Lot, agrees to hold Declarant harmless therefrom.



## **ARTICLE VI RIGHTS AND OBLIGATIONS OF OWNERS**

**6.1     Maintenance and Repair.** Each Owner shall, at his sole cost and expense, maintain and repair all components of their Dwelling and Lot, and any land between the Lot and the edge of the shoulder of the road, which the Association is not required or has elected not to maintain and repair, keeping the same in good condition, and shall repair all damage to the Lot, Dwelling or any other Improvements for which the Owner is responsible under this Declaration.

**6.2     Design Review.** All Improvements of any type whatsoever, whether permanent or temporary, including, without limitation, any residence, building or other structure erected on the Property and all grading, landscaping, fencing and other Improvements thereon may only be undertaken or constructed after approval thereof by the Architectural Control Committee of the Master Association (the "ACC") in accordance with the provisions of the Master Declaration and the Design Guidelines for the Master Association and/or the Association.

**6.3     Damage to Dwellings.** In the event of any damage to any Dwelling, it shall be the duty of the Owner of the Dwelling to restore and repair the same to its former condition, as promptly as practical. The Dwelling shall be reconstructed or rebuilt substantially in accordance with the original construction plans, or with such new plans as may be approved by the Architectural Control Committee for the Master Association.

**6.4     Rights of Association.** In the event an Owner fails to maintain or repair their Lot or Dwelling as required by this Declaration, the Association shall have the right but not the duty to enter upon such Lot or Dwelling and perform the same, and to charge and assess the cost thereof as a Special Assessment to the Owner. Except in the case of an emergency, the Association shall provide not less than 48 hours' written notice to an Owner prior to undertaking any maintenance or repair activities pursuant to this section.

## **ARTICLE VII RIGHTS AND OBLIGATIONS OF THE ASSOCIATION AND BOARD OF DIRECTORS**

**7.1     Common Areas.** The Board of Directors, acting on behalf of the Association, and subject to the obligations and duties of the Owners as set forth in this Declaration, shall be responsible for the exclusive management and control of the Common Areas and all improvements thereon, and shall keep the same in a good, clean, attractive, safe and sanitary condition, order and repair. All goods and services procured by the Board in performing its responsibilities under this section shall be paid for with funds from the Common Expense Fund, except that the cost of maintenance or repair of any Limited Common Area and the improvements thereon shall be chargeable to the Owner of the Lot to which that Limited Common Area appertains, as a Special Assessment.

**7.2     Manager.** The Board of Directors may employ a Manager to perform certain services on behalf of the Association, including but not limited to the responsibilities of the Board under this Declaration. The Board may be written contract delegate in whole or in part to the



Manager such of the duties, responsibilities, functions and powers hereunder of the Board as are delegable. The services of the Manager retained by the Board of Directors shall be paid for with funds from the Common Expense Fund.

**7.3 Miscellaneous Goods and Services.** The Board may, on behalf of the Association, obtain and pay for the services of such personnel as the Board shall determine to be necessary or desirable for the proper execution of the Association's responsibilities under this Declaration, whether such personnel are furnished directly by the Association or by any person or entity with whom or with which it contracts. Whenever reasonable and advisable, all such personnel shall be independent contractors. Any contracts between the Association or the Manager, on the one hand, and any affiliate of the Manager, on the other, shall be competitive with those available from unrelated third parties. The Board may, on behalf of the Association, obtain and pay for legal and accounting services necessary or desirable in connection with the execution of the Association's responsibilities under, or enforcement of, this Declaration. In addition to the foregoing, the Board of Directors may, on behalf of the Association, acquire and pay for out of the Common Expense fund water, sewer, garbage collection, snow removal, electrical, gas and other necessary or desirable utility services for the Common Areas, insurance, bond and other goods and services common to the Lots or Dwellings.

**7.4 Real and Personal Property.** The Board may acquire and hold on behalf of the Association real, personal, and mixed property of all types for the use or benefit of all of the Owners and may dispose of such property by sale or otherwise.

**7.5 Rules and Regulations.** The Board may make reasonable rules and regulations governing the use of the Lots, Dwellings, Common Areas, Limited Common Areas, and all parts of the Property under the operation of the Board, to facilitate the performance of its powers and duties under this Declaration. Such rules and regulations shall be consistent with the rights and duties established by this Declaration and the Master Declaration. The Board, on behalf of the Association, may take judicial action against any owner or occupant to enforce compliance with such rules and regulations or other obligations of such Owner or occupant arising hereunder, or to obtain damages for noncompliance therewith, as permitted by law. In the event of such judicial action, the Association shall be entitled to recover its costs, including reasonable attorneys' fees, from the offending Owner or occupant.

**7.6 Granting Easements.** The Board may, without the vote or consent of the Owners or of any other person, grant or create, on such terms as it deems advisable, easements, licenses, and rights-of-way over, under, across and through the Common Areas for utilities and other purposes reasonably necessary or useful for the proper maintenance, operation or orderly development of the Project and adjoining lands.

**7.7 Implied Rights.** The Association may exercise any right, power or privilege given to it expressly by this Declaration or by law, and every other right or privilege reasonably implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.

**7.8 Power of Attorney and Amendments.** Each Owner makes, constitutes, and appoints the Association their true and lawful agent in their name, place and stead to make, execute, sign, acknowledge and file with respect to the Property such amendments to this Declaration and the Map as may be required by law or by vote taken pursuant to the provisions of this Declaration.

## **ARTICLE VIII ASSESSMENTS**

**8.1 Agreement to Pay Assessments.** Each Owner of any Lot, by the acceptance of instruments of conveyance and transfer therefor, whether or not it be so expressed in said instruments, shall be deemed to covenant and agree with each other and with the Association to pay to the Association all assessments made by the Association for the purposes provided in this Declaration. Such assessments shall be fixed, established, collected, and enforced from time to time, in accordance with the provisions of this Declaration and Article VI of the Master Declaration.

**8.2 Annual Assessments.** Annual Assessments shall be computed and assessed against all Lots in the Project as follows:

(a) **Common Expenses.** Annual Assessments shall be based upon advance estimates of the Association's cash requirements to provide for payment of all estimated expenses arising out of or connected with the maintenance and operation of the Common Areas. Such estimated expenses may include, without limitation the following: expenses of management; real property taxes and special assessments relating to the Common Areas (unless and until the Lots are separately assessed for the same); premiums for all insurance that the Association is required or permitted to maintain; repairs and maintenance; wages for Association employees; fees for the Common Area Manager; utility charges; snow removal expenses; legal and accounting fees; any deficit remaining from a previous period; creation of an adequate contingency reserve, major maintenance reserve and/or sinking fund; creation of an adequate reserve for maintenance, repairs and replacement of those Common Areas that must be replaced on a periodic basis (such reserve shall be funded by monthly payments rather than extraordinary Special Assessments); assessments levied by the Master Association; and any other expenses and liabilities which may be incurred by the Association for the benefit of the Owners under or by reason of this Declaration. Such items shall constitute the Common Expenses, and all funds received from assessments, except for reserves, shall be part of the Common Expense Fund.

(b) **Apportionment.** Each Lot, including Lots owned by Declarant, shall bear an equal share of each Regular and Special Assessment (except for those Assessments charged to individual Owners pursuant to this Declaration).

(c) **Annual Budget.** Annual Assessments shall be determined on the basis of a fiscal year beginning November 1 and ending October 31 next following, provided the first fiscal year shall begin on the date this Declaration is recorded. On or before October



15 of each year, the Board shall prepare and furnish to each Owner, or cause to be prepared and furnished to each Owner, an operating budget for the upcoming fiscal year. The budget shall itemize the estimated amounts of Common Expenses for such fiscal year, anticipated receipts (if any) and any deficit or surplus from the prior operating period. The budget shall serve as the supporting document for the Annual Assessment for the upcoming fiscal year and as the major guideline under which the Project shall be operated during such annual period.

(d) **Notice and Payment.** Except with respect to the first fiscal year, the Board shall notify each Owner as to the amount of the Annual Assessment against their Lot and Dwelling on or before October 15 each year for the fiscal year beginning on November 1 next following. No further notice shall be required. Each Annual Assessment shall be payable quarterly, in four (4) equal installments, commencing November 15 during the fiscal year to which the assessment relates; provided, however, the Annual Assessment for the first fiscal year shall be based upon such portion of the first fiscal year. All unpaid installments of any Annual Assessment shall bear interest at the rate of eighteen percent (18%) per annum from the date each such installment became due until paid (or at such other lawful rate as the Board shall establish). The failure of the Board to give timely notice of any Annual Assessment shall not be deemed a waiver or modification in any respect of the provisions of this Declaration, or a release of any Owner from the obligation to pay such assessment or any other assessment; but the date when the payment shall become due in such case shall be deferred to a date fifteen (15) days after notice of such assessment shall have been given to the Owner in the manner provided in this Declaration. In the alternative and at the option of the Board, the Annual Assessment shall be paid in one lump sum installment due on or before November 15 of the fiscal year.

(e) **Inadequate Funds.** In the event that the Common Expense Fund proves inadequate at any time by reason of nonpayment of any Owner's assessment, the Board may, on behalf of the Association, levy additional assessments in accordance with the procedure set forth in section 8.3, below, except that the vote therein specified shall not be required.

**8.3 Special Assessments.** In addition to the Annual Assessments, the Board may, on behalf of the Association, levy at any time and from time to time, upon the affirmative vote of at least fifty-one percent (51%) of the total votes of the Association, Special Assessments, payable over such periods as the Board may determine, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of the Project or any part thereof, or for any other expense incurred or to be incurred as provided in this Declaration (including, without limitation, Common Expenses). This section shall not be construed as an independent source of authority for the Association to incur expenses but shall be construed to prescribe the manner of assessing for expenses authorized by other Sections or Articles hereof. Notice in writing of the amount of each such Special Assessment and the time for payment shall be given promptly to the Owners; no payment shall be due less than fifteen (15) days after such notice shall have been given. All unpaid portions of any Special Assessment shall bear interest at the rate of eighteen percent (18%) per annum (or such other lawful rate as the Board may establish).



from the date such portions become due until paid. All funds received from assessments under this Section shall be part of the Common Expense Fund.

**8.4 Lien for Assessments.** All sums assessed to Owners of any Lot or Dwelling within the Project pursuant to the provisions of this Article, together with penalties and interest thereon as provided herein, shall be secured by a lien on such Lot, Dwelling and any other Improvements thereon in favor of the Association. In the event of a delinquency in the payment of any assessment, the Board shall prepare a written notice of lien containing the information set forth and in accordance with the procedure described in Idaho Code 55-3207, verified by the oath of an individual with knowledge of the facts set forth therein, and recorded in the real property records for Bonner County, Idaho. Upon payment of all delinquent assessments, plus interest, costs, and expenses (including reasonable attorney's fees) incurred in the investigation, preparation and filing of such lien, or other satisfaction thereof, the Board shall cause to be recorded notice stating the satisfaction and the release of the lien. If the delinquency is not so cured, such lien may be enforced by sale or foreclosure conducted in accordance with the provisions of law applicable to the exercise of powers of sale or foreclosure in deeds of trust or mortgages or in any other manner permitted by law. In any such foreclosure, the Owner shall be required to pay the costs and expenses of such proceeding (including reasonable attorneys' fees) and such costs and expenses shall be secured by the lien being foreclosed. The Owner shall also be required to pay to the Association any assessments against the Lot and Dwelling which shall become due during the period of the foreclosure, which such assessments shall also be secured by the lien being foreclosed. The Board shall have the right and power on behalf of the Association to bid in at any foreclosure sale, and to hold, lease, mortgage or convey the subject Lot and Dwelling in the name of the Association.

**8.5 Personal Obligation of Owner.** The amount of any Annual Assessment or Special Assessment, as well as any interest, costs, fees, or charges which are the obligation of the Owner as a result of a delinquency in the payment thereof, shall be the personal obligation of the Owner to the Association. Suit to recover a money judgment for such personal obligation shall be maintainable by the Association without foreclosing or waiving the lien securing the same. No Owner may avoid or diminish any such personal obligation by waiver of the use and enjoyment of any of the Common Areas or by abandonment of his Lot or Dwelling or by waiving any services or amenities provided for in this Declaration. In the event of any suit to recover a money judgment for unpaid assessments hereunder, the involved Owner shall pay the costs and expenses incurred by the Association in connection therewith, including reasonable attorneys' fees incurred.

**8.6 Statement of Account.** The Association shall provide a written statement account to any Owner or Owner's agent requesting the same within five (5) business days after having received a request therefore, in accordance with Idaho Code 55-3205.

**8.7 Personal Liability of Purchaser.** Subject to the provisions below in the event of a foreclosure, a purchaser of a Lot shall be jointly and severally liable with the seller thereof for all unpaid assessments against such Lot up to the time of the grant or conveyance; provided, however, that the provisions of this Section shall not prejudice the purchaser's right to recover from the seller the amount paid by the purchaser for such assessments.

**8.8     Reserve Fund.** The Association shall establish and maintain an adequate reserve fund for the periodic maintenance, repair, and replacement of improvements to the Common Areas. The reserve fund shall be maintained out of regular assessments for Common Expenses.

**8.9     Transfer Fees.** In addition to the foregoing Assessments, the Association may establish a fee to be paid on the sale or transfer of a Lot (the "Transfer Fee") to be used for the purposes provided in this Declaration. The amount of the Transfer Fee shall be fixed by the Board of Directors and approved by Members holding a majority of the voting power of the Association.

**8.10   Amendment of Article.** This Article VIII shall not be amended except upon approval of not less than two-thirds (2/3) of the total voting power of the Association.

## **ARTICLE IX INSURANCE**

**9.1     Association Insurance.** The Association shall obtain and keep in full force and effect at all times the following types of insurance coverage, provided by companies authorized or licensed to do business in the State of Idaho:

(a)     **Hazard Insurance.** A "master" or "blanket" type of hazard insurance policy or policies with respect to the Common Areas, protecting against loss or damage by fire and other hazards normally covered by the standard extended coverage endorsement, and all other perils customarily covered for similar types of projects, including those covered by the standard "all risk" endorsement. The hazard policy shall cover one hundred percent (100%) of the current replacement cost of all insured facilities, but excluding land, foundations, excavations or other items normally excluded from insurance coverage. Additionally, the policy shall include the following special endorsements and provisions:

- (i)       Agreed amount and inflation guard endorsement, when available;
- (ii)      Construction code endorsements;
- (iii)     The requirement that any Insurance Trust Agreement will be recognized;
- (iv)      A waiver of any right of subrogation against Lot Owners;
- (v)       A requirement that the insurance will not be prejudiced by any acts or omissions of individual Lot Owners that are not under the control of the Association; and
- (vi)      An indication that the policy is a primary policy, even if a Lot Owner has other insurance covering the same loss.



The policy shall name the Association, for the use and benefit of the individual Owners, as the named insured, and shall contain the standard mortgage clause, naming the holders of first mortgages (and their successors and assigns) as the mortgagees.

(b) **Liability Insurance.** A comprehensive general liability insurance policy covering all Common Areas and all public ways and other areas that are under the supervision of the Association. The liability policy shall provide coverage of at least \$1,000,000 for bodily injury and property damage for any single occurrence, covering bodily injury and property damage resulting from the operation, maintenance or use of the Common Areas, and any legal liability resulting from the Association's activities under this Declaration.

(c) **Fidelity Bonds.** Blanket fidelity bonds for anyone who either handles or is responsible for funds that are held or administered by the Association, whether or not they receive compensation for such services. Any management agent that handles funds for the Association shall also be covered by its own fidelity bond. The bond shall cover the maximum funds that will be in the custody of the Association or its agent at any time while the bond is in force. Additionally, the fidelity bond coverage must at least equal the sum of three (3) months' assessments on all Lots in the Project, plus the Association's reserve funds.

**9.2 Insurance Premiums.** Insurance premiums for any blanket insurance coverage obtained by the Association and any other insurance deemed necessary by the Board of Directors shall be a Common Expense to be included in the Regular Assessments levied by the Association and collected from the Owners. That portion of the Regular Assessments necessary for the required insurance premiums shall be separately accounted for by the Association in the reserve fund to be used solely for the payment of premiums of required insurance as such premiums become due.

**9.3 Trustee for Policies.**

The Association, acting through its Board of Directors, is hereby appointed and shall be deemed trustee of the interests of all named insureds under policies of insurance purchased and maintained by the Association. All insurance proceeds under any such policies as provided for in Paragraph 9.1 above shall be paid to the Board of Directors as trustees. The Board shall have full power to receive and to receipt for the proceeds and to deal therewith as provided herein. Insurance proceeds shall be used by the Association for the repair or replacement of the property for which the insurance was carried or otherwise disposed of as provided in this Declaration. The Board is hereby granted the authority to negotiate loss settlements with the appropriate insurance carriers, with participation, to the extent they desire, of first mortgagees who have filed written requests within ten (10) days of receipt of notice of any damage or destruction as provided in this Declaration. Any two (2) Directors of the Association must sign a loss claim form and release form in connection with the settlement of a loss claim, and such signatures shall be binding on all the named insureds.

**9.4 Right and Duty of Owners to Insure.** It is the responsibility of each Owner to provide and maintain hazard insurance on their Dwelling, and on their personal property and upon



all other property and Improvements within their Lot, for its full insurable value for replacement cost coverage. Nothing hereby shall preclude an Owner from carrying any public liability insurance as they deem desirable to cover their individual liability for damage to persons or property occurring within their individual Lot or elsewhere upon the Property. Such policies shall not adversely affect or diminish any liability under any insurance obtained by or on behalf of the Association, and duplicate copies of such other policies shall be deposited with the Board upon request. If any loss intended to be covered by insurance carried by or on behalf of the Association shall occur and the proceeds payable thereunder shall be reduced by reason of insurance carried by any Owner, such Owner shall assign the proceeds of such insurance carried by them to the Association to the extent of such reduction, for application by the Board to the same purposes as the reduced proceeds are to be applied.

**9.5     Waiver of Claims.** As to all policies of insurance maintained by or for the benefit of the Association and the Owners, the Association and the Owners hereby waive and release all claims against one another, the Board of Directors and Declarant, to the extent of the insurance proceeds available, whether or not the insurable damage or injury is caused by the negligence of or breach of any agreement by any of said persons.

**9.6     Notice of Expiration.** If available, all of the policies of insurance maintained by any Owner or the Association shall contain a provision that said policy or policies shall not be canceled, terminated or expired by their terms, without thirty (30) days prior written notice to the Board, Declarant, Owners and their respective first mortgagees (provided that such persons other than the Board have filed written requests with the carrier for such notice) and every other person in interest who requests such notice of the insurer. Owner also shall provide proof of such insurance to the Association.

## **ARTICLE X MORTGAGE PROTECTION**

**10.1   Notice of Action.** From and after recordation of a Mortgage by a First Mortgagee, and upon written request to the Association, any such First Mortgagee shall be entitled to timely written notice of:

(a)     Any condemnation loss or any casualty loss which affects a material portion of the Project or any Lot on which there is a First Mortgage held by such First Mortgagee;

(b)     Any default in the performance by the Owner of a Lot which is held or is subject to a First Mortgage held by such First Mortgagee of any obligation under this Declaration, including, without limitation, any delinquency in the payment of assessments or charges owed by such Owner, which default remains uncured for a period of sixty (60) days; and

(c)     Any lapse, cancellation or material modification of any insurance policy or fidelity bond (including the fidelity bond of the Common Area Manager) maintained by the Association.

(d) Any proposed action which would require the consent of a specified percentage of First Mortgagees.

**10.2 Matters Requiring Prior First Mortgagee and/or Owner Approval.** Except as provided under this Declaration in case of condemnation or substantial loss, the prior written consent of Owners entitled to vote at least two-thirds (2/3) of the total voting power of the Association (unless pursuant to a specific provision of this Declaration the consent of Owners entitled to vote a greater percentage of the total voting power of the Association is required, in which case such specific provisions shall control), and First Mortgagees holding First Mortgages on Lots having at least two-thirds (2/3) of the votes of the Lots subject to First Mortgages held by First Mortgagees shall be required to:

(a) Abandon or terminate the legal status of the Project (whether by act or omission);

(b) Add or amend any material provision of the Declaration, Articles, Bylaws or Map, which establishes, provides for, governs or regulates any of the following (an addition or amendment to such documents shall not be considered material if it is for the purpose of correcting technical errors or for clarification only):

(i) Insurance;

(ii) Boundaries of any Lot;

(iii) The undivided Ownership interests in the Common Areas, the Common Facilities or Limited Common Areas; and

(iv) Any provisions which are for the express benefit of First Mortgagees.

(c) Use hazard insurance proceeds for losses to any portion of the Project (whether to Lots, Dwellings or Common Areas) for other than the repair, replacement or reconstruction of the Project; and

(d) Effect any restoration or repair of the Project after a partial condemnation or damage due to an insurable hazard, which will not be substantially in accordance with the Declaration and the original architectural plans and specifications of the Project.

Any First Mortgagee who receives a written request from the Association to approve additions or amendments to the constituent documents and who fails to deliver or post to the Association a negative response within thirty (30) days shall be deemed to have approved such request.

**10.3 Prior Liens Relate Only to Individual Lots.** All taxes, assessments and charges which may become liens prior to the First Mortgage under local law shall relate only to the individual Lots and not to the Project as a whole.



**10.4 Subordination of Common Expense Lien.** Any lien which the Association may have on any Lot or Dwelling in the Project for the payment of Common Expense assessments attributable to such Lot or Dwelling, and any fees, late charges, taxes or interest levied by the Association in connection therewith, shall be subordinate to the lien or equivalent security interest of any First Mortgage on the Lot recorded prior to the date on which any such Common Expense assessments become due.

**10.5 Information Available to Owners and Holders of First Mortgages.** Any Owner or holder of any First Mortgage shall, upon request, be entitled to inspect current copies of the Declaration, Bylaws, other rules and regulations concerning the Project and the books, records and financial statements of the Association during normal business hours or under other reasonable circumstances.

**10.6 Additional Information Available to Holders of First Mortgages.** In addition to the rights granted in Section 10.5, any holder, insurer or guarantor of any First Mortgage shall, upon written request, be entitled to written notice of all meetings of the Association and be permitted to designate a representative to attend all such meetings. Such representative shall not have any voting rights at such meeting except to the extent of any voting rights held by reason of Ownership of one or more Lots in the Project.

**10.7 Priority of First Mortgagee in Event of Damage.** In the event of substantial damage to or destruction of any Dwelling or any part of the Common Areas, no provision of the Declaration, Articles or Bylaws or any amendment thereto shall entitle the Owner of a Lot or other party to priority over any First Mortgagee with respect to the distribution to such Owner of any insurance proceeds.

**10.8 Priority of First Mortgagee in Event of Condemnation.** If any Lot or Dwelling or portion thereof, or the Common Areas or any portion thereof, is made the subject matter of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority, no provision of the Declaration, Articles or Bylaws or any amendment thereto shall entitle the Owner of a Lot, or any other party, to priority over any First Mortgagee with respect to the distribution to such Lot of the proceeds of any award or settlement.

**10.9 First Mortgagee Rights in Event of Foreclosure.** Each First Mortgagee who obtains title to a Lot pursuant to the remedies provided in the Mortgage, or by deed or assignment in lieu of foreclosure, or any purchaser at a foreclosure sale, shall take the Lot free of any claims for unpaid assessments and charges against the Lot which accrue prior to the acquisition of title to such Lot.

## **ARTICLE XI DESTRUCTION; CONDEMNATION**

**11.1 Damage to Common Areas.** In the event of any destruction of any portion of the Common Areas, the repair or replacement of which is the responsibility of the Association, it shall

be the duty of the Association to restore and repair the same to its former condition, as promptly as practical. The proceeds of any insurance maintained pursuant to Article IX hereof for reconstruction or repair of the Property shall be used for such purpose, unless otherwise provided herein. The Board shall be authorized to have prepared the necessary documents to effect such reconstruction as promptly as practical. The Property shall be reconstructed or rebuilt substantially in accordance with the original construction plans. If the amount available from the proceeds of such insurance policies for such restoration and repair is inadequate to complete the restoration and repair, the Board shall levy a Special Assessment for the deficiency and proceed with such restoration and repair.

**11.2 Damage to Dwellings.** In the event of any destruction of any Dwelling or Dwellings, it shall be the duty of the Owner(s) of the Dwelling or Dwellings to restore and repair the same to its/their former condition, as promptly as practical, and in accordance with section 6.3, above.

**11.3 Condemnation.** The taking or partial taking of any Lot or the Common Area by condemnation or threat thereof shall be negotiated by the party whose property is affected thereby, and such party shall be entitled to receive all compensation paid by the condemning authority. In the event of a taking or partial taking of the Common Area, the Board shall be authorized to negotiate the condemnation award, which shall be deposited in the general funds of the Association, subject to disbursement or other use according to an agreement supported by two-thirds (2/3) of the voting power of the Association.

## **ARTICLE XII DURATION AND AMENDMENT**

**12.1 Duration.** This Declaration shall continue in full force for a term of fifty (50) years from the date hereof, after which time the same shall be automatically extended for successive periods of ten (10) years, unless a Declaration of Termination is recorded, meeting the requirements of an amendment to this Declaration as set forth in Paragraph 12.2. There shall be no severance by sale, conveyance, encumbrance or hypothecation of an interest in any Lot from the concomitant membership of the Association, as long as this Declaration shall continue in full force and effect. Expiration or termination of this Declaration shall not alter or affect the rights of the Declarant without its specific written consent.

**12.2 Amendment.** Notice of the subject matter of a proposed amendment to this Declaration in reasonably detailed form shall be included in the notice of any meeting of the Association at which a proposed amendment is to be considered. A resolution adopting a proposed amendment may be proposed by an Owner at a meeting of the Members of the Association. The resolution shall be adopted by the affirmative vote of not less than two-thirds (2/3) of the voting power of the Association present in person or by proxy at a regular or special meeting called for that purpose.

Notwithstanding the foregoing, the percentage of the voting power necessary to amend a specified provision of this Declaration shall be not less than the percentage of affirmative votes



prescribed for action to be taken under that provision. In addition, no amendment shall be effective to alter or amend any of the reserved rights of the Declarant without the Declarant's specific written consent, or to alter or amend any conditions of approval imposed by Bonner County in connection with its approval of the PUD or any constituent subdivision thereof without Bonner County's specific consent.

A certificate, signed and sworn to by two (2) officers of the Association, that the record Owners of the required number of Lots have voted for any amendment adopted as provided above, when recorded, shall be conclusive evidence of that fact. The Association shall maintain in its files the record of all such votes or written consents for a period of at least four (4) years. Such a certificate reflecting any amendment which requires the written consent of any of the record holders of first mortgages shall be signed and sworn to by such first mortgagees.

**12.3 Option to Expand.** Notwithstanding anything contained herein which may be construed to the contrary, Declarant, for itself and its successors and assigns, hereby reserves the option to expand the coverage of this Declaration at any time, through the addition of further real property, without the prior consent or approval of the Owners or the Association.

### **ARTICLE XIII GENERAL PROVISIONS**

**13.1 Compliance.** Each Owner shall comply strictly with the provisions of this Declaration, the Bylaws of the Association, rules and regulations promulgated by the Association or the Board, and the decisions and resolutions adopted pursuant thereto, as the same may lawfully be modified and amended from time to time. Failure to comply with any of the same shall be grounds for an action to recover sums due for damages or for injunctive relief or for both, maintainable by the Association or, in a proper case, by an aggrieved Owner.

**13.2 Enforcement and Remedies.** The Board, any Owner, and any governmental or quasi-governmental agency or municipality having jurisdiction over the Project shall have the right to enforce, by any proceedings at law or in equity, all restrictions, conditions, covenants, reservations, liens, and charges now or hereafter imposed by this Declaration, or by the Articles of Incorporation, Bylaws and rules and regulations of the Association, and in such action shall be entitled to recover costs and reasonable attorney fees as may be ordered by the Court. Any such action by the Board shall be taken on behalf of the Association and in accordance with all applicable requirements of the Homeowner's Association Act, Chapter 32, Title 55, Idaho Code. Failure by any such person or entity to enforce any such provision shall in no event be deemed a waiver of the right to do so thereafter.

**13.3 Intent and Purpose.** The provisions of this Declaration, and any supplemental or amended Declaration, shall be liberally construed to effectuate the purposes set forth herein. Failure to enforce any provision, restriction, covenant or condition contained in this Declaration, or in any supplemental or amended Declaration, shall not operate as a waiver of any such provision, restriction, covenant or condition or of any other provisions, restrictions, covenants or conditions.



**13.4 Construction.** The provisions of this Declaration shall be in addition and supplemental to all other provisions of law, including but not limited to the Homeowner's Association Act, Chapter 32, Title 55, Idaho Code, as the same may be amended from time to time. In the event of any inconsistency between this Declaration, the Master Declaration, and federal, state and/or local laws, rules or regulations governing the Property or the Project, including but not limited to conditions of approval for the PUD and any constituent subdivision thereof, the more restrictive shall control. Whenever used herein, unless the context shall otherwise require, the singular shall include the plural, the plural shall include the singular, the whole shall include any part thereof and any gender shall include both genders. The article and section headings set forth herein are for convenience and reference only and are not intended to expand, limit or otherwise affect the meaning or interpretation of this Declaration or any provision hereof. The provisions hereof shall be deemed independent and several, and the invalidity or partial invalidity or unenforceability of any one provision or portion thereof shall not affect the validity or enforceability of any other provisions hereof. To the extent of any inconsistency, the provisions of the Declaration shall control over the Articles of Incorporation of the Association and said Articles shall control over the Bylaws of the Association.

**13.5 Notices and Registration of Addresses.** Each Owner shall register from time to time with the Association their current physical address, mailing address and email address. All notices, demands and other communications to any Owner as provided for in this Declaration shall be in writing and shall be sufficient for all purposes if personally served or if sent by first-class U.S. Mail, postage prepaid, addressed to the Owner at his registered mailing address or to their email address with a delivery and read receipt, or, if no such addresses have been registered, to the tax notice address of such Owner. All notices, demands and other communications to the Association as provided for in this Declaration shall be in writing and shall be sufficient for all purposes if personally served or if sent by first-class U.S. Mail, postage prepaid, addressed to the Association at its offices or to such other address as the Association may hereinafter specify to the Owners in writing, or to the official email address for the Association with a delivery and read receipt. Any notice, demand or communication referred to in this Declaration shall be deemed to have been given and received when personally served or when deposited in the U.S. Mail, postage prepaid, and in the form provided for in this Section, as the case may be.

**13.6 Audit.** Any Owner may at any reasonable time, upon appointment and at his own expense, cause an audit or inspection to be made of the books and records maintained by the Association. The Association, at the expense of the Common Expense Fund, may, at any time, obtain an audit, by certified public accountants, of all books and records pertaining to the Project, and copies thereof shall be furnished to the Owners.

**13.7 Effective Date.** This Declaration shall take effect upon recording.

**13.8 Limitation on Association's Liability.** The Association, its officers, directors, employees, agents, members, successors or assigns, shall not be liable for injury or damage to any person in or upon the Project, or for any failure of any utility services (if any) to be obtained and paid for by the Association hereunder or resulting from electricity, water, rain, snow or ice which may leak or flow from outside or from any parts of the buildings or the drains, pipes, conduits, appliances or equipment, or from any other place, unless caused by the grossly negligent or willful

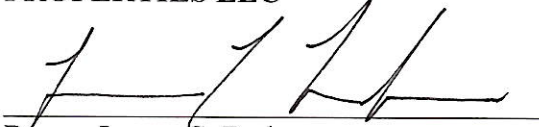


misconduct of the Association. No diminution or abatement of any assessments under this Declaration shall be claimed or allowed for inconvenience or discomfort arising from the making of any repairs or Improvements to or maintaining the Project or any part thereof, or from any action taken to comply with the provisions of this Declaration or with the laws, ordinances, regulations, rules or order of any governmental authority.

**13.9 Owner's Obligations.** All obligations of an Owner, under and by virtue of the provisions contained in this Declaration, shall continue, notwithstanding that he may be leasing, renting or selling under contract their Lot. The Owner of a Lot within the Project shall have no obligation for expenses or other obligations accruing after conveyance of such Lot.

**IN WITNESS WHEREOF**, the undersigned Declarant has executed this Declaration the day and year first above written.

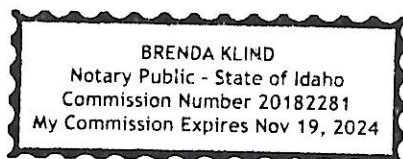
**SCHWEITZER MOUNTAIN  
PROPERTIES LLC**

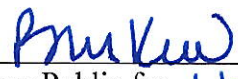
  
By: Lance C. Badger  
Its: President

STATE OF Idaho )  
: ss.  
County of Bonner )

On this 15th day of May, 2024, before me Brenda Klind, the undersigned Notary Public, personally appeared Lance C. Badger, known or identified to me to be the President of Schweitzer Mountain Properties 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 company executed the same.

(SEAL)



  
Notary Public for Idaho  
Residing at Bonner County  
Commission Expires: 11/19/24