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**SUPPLEMENTAL DECLARATION
TO THE
ASPEN RIDGE MASTER DECLARATION
FOR
ASPEN RIDGE PHASE III**

After Recording Return To:
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**SUPPLEMENTAL DECLARATION
TO THE ASPEN RIDGE MASTER DECLARATION
FOR
ASPEN RIDGE PHASE III**

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**SUPPLEMENTAL DECLARATION
TO THE ASPEN RIDGE MASTER DECLARATION
FOR
ASPEN RIDGE PHASE III**

This Supplemental Declaration ("this Declaration") is made this 8th day of JANUARY, 2007, by Mountain West Developers, Inc., an Idaho corporation.

ARTICLE 1. Declaration / Purposes

1.1 General Purposes

(a) This Declaration is a supplement to that certain Master Declaration of Covenants, Conditions and Restrictions for Aspen Ridge ("Master Declaration"), recorded with the Valley County, Idaho Recorder as Instrument Number 211619. This Declaration subjects the real property legally described at **Exhibit A**, referred to hereafter as Aspen Ridge Phase III, to the Master Declaration, as the terms of the Master Declaration may be modified by this Supplemental Declaration.

(b) The Declarant, owns the real property described at **Exhibit A** and called Aspen Ridge Phase III, and intends to develop said property as a residential community within the Aspen Ridge Planned Unit Development.

(c) Aspen Ridge Phase III Association, an Idaho nonprofit corporation, has been formed, to perform certain functions and to hold and manage certain property for the common benefit of some or all Owners. This Declaration defines certain rights and obligations of Owners within Aspen Ridge Phase III with respect to the Association and with respect to Functions undertaken and Association Facilities held by the Association.

(d) By this Declaration, Declarant also intends to establish a means to provide for and maintain the area within Aspen Ridge Phase III as a pleasant and desirable environment for all persons residing therein.

1.2 Declaration: To further the general purposes herein expressed, the Declarant, for itself, its successors and assigns, hereby declares that all real property defined herein as Aspen Ridge Phase III is hereby made a part of the Property as that term is defined in the Master Declaration, and shall at all times be owned, held, used and occupied subject to the provisions of the Master Declaration and this Declaration and to the covenants, conditions and restrictions herein contained. In the event of any conflict between this Declaration and the Master Declaration, this Declaration shall control; and, specifically, the terms of the Phase III Design Guidelines shall control to the exclusion of the design guidelines described at XI (Architectural Control Committee) of the Master Declaration. Declarant, for each Unit it owns, and each Owner, by acceptance of a deed or other conveyance of title to a Unit, HEREBY COVENANTS, PROMISES, AND AGREES to be bound by and to comply in all respects with all provisions of the Master Declaration as modified by this Declaration, and all applicable Supplemental Declarations, the Articles and Bylaws of the Association, all applicable sub-association articles and bylaws, the Design Guidelines, and all Rules and Regulations promulgated pursuant to any of the above.

ARTICLE 2. Certain Definitions

2.1 Affirmative Vote of the Majority: The Affirmative Vote of the Majority shall be achieved on any particular matter if (and only if) (a) the Class B Member votes in favor of such matter; and, (b) at least 51% of the votes of the Class A Members are cast in favor of such matter. For the purpose of determining the vote of a class, the votes of a majority of the members of such class present at a meeting at which a quorum is established, in person or by proxy and entitled to vote on such matter, shall be deemed the vote of such class. Notwithstanding the foregoing, in the event that there is no Class B member, the favorable vote of such member shall not be considered in determining a majority. Notwithstanding any other provision to the contrary in the Association Documents, this definition may not be amended without an Affirmative Vote of the Majority as defined herein.

2.2 Articles: The Articles of Incorporation for Aspen Ridge Phase III, Inc.

2.3 Aspen Ridge Association: Aspen Ridge Homeowners' Association, Inc., an Idaho nonprofit corporation, formed and incorporated to be and constituting the Association to which reference is made in this Declaration and to further the common interests of all Owners within Aspen Ridge Phases I, II and III.

2.4 Aspen Ridge Architectural Committee: The Architectural Control Committee described in the Master Declaration (“ACC”).

2.5 Aspen Ridge Homeowners’ Association Documents: The various operative documents of the Aspen Ridge Homeowners’ Association, including: (a) The Master Declaration; (b) the Articles of Incorporation for Aspen Ridge Homeowners’ Association; (c) the Bylaws for Aspen Ridge Homeowners’ Association; (d) all amendments and supplements to any of the aforementioned documents; and, (e) all as modified by the Aspen Ridge Phase III Association Documents.

2.6 Aspen Ridge Phase III: All of the real property in Valley County, Idaho, within the boundaries set forth in the legal description attached hereto as **Exhibit A**.

2.7 Association: Aspen Ridge Phase III Association, Inc., an Idaho nonprofit corporation, formed and incorporated to be and constituting the Association to which reference is made in this Declaration and to further the common interests of all Owners or of particular classes of Owners of Units within Aspen Ridge Phase III.

2.8 Association Documents or Aspen Ridge Phase III Association Documents: The various operative documents of the Aspen Ridge Phase III Association, including: (a) this Supplemental Declaration; (b) the Articles of Incorporation for Aspen Ridge Phase III Association; (c) the Bylaws for Aspen Ridge Phase III Association; (d) the Phase III Design Guidelines; (e) all Rules and Regulations promulgated by the Board; (f) any final plat recorded for Aspen Ridge Phase III; and, (g) all amendments and supplements to any of the aforementioned documents.

2.9 Association Facilities: All property owned or leased by the Association or otherwise held or used by the Association, or under the Association’s management or control by, through or under contractual arrangements, licenses or other arrangements, including Property Furnished by Declarant, real property or interests therein, improvements on real property, and personal property and equipment.

2.10 Benefited Units: The Board shall have the discretion to designate groups of Units which have like interests or needs, which Units may already be grouped as a Neighborhood, or may be some other grouping of Units with like interests or needs, for the following purposes: determination, assessment and budgeting for Benefited Unit Assessments, as defined at Section 9.2 of the Bylaws; and/or, any other benefit, service or obligation related to certain Units which are not already grouped as a Neighborhood. The Board may make such designation either of their own volition or in their discretion at the request of a Neighborhood Committee or Members.

2.11 Board: The Board of Directors for Aspen Ridge Phase III Association, Inc.

2.12 Building: Any building (including all fixtures and improvements contained within them) located on any of the four Condominium Parcels, and in which the Condominium Units are located.

2.13 Building Improvements: Any material improvement of any of the Property including, but not limited to landscaping, site preparation, paving, fencing, building construction, exterior changes, or interior changes which change the use of interior space to an unauthorized use or which would change the number of Living Units.

2.14 Bungalow Structure: A building which contains one Living Unit.

2.15 Bylaws: The Bylaws for Aspen Ridge Phase III Association, Inc.

2.16 Common Area: All Common Areas depicted on the Plat and declared to be Common Area in this Declaration, and in which Members of the Aspen Ridge Association enjoy common, non-exclusive rights of use. Common Area is further described at Section 5.1. Exclusive Use Common Area, as described at Section 2.24 below, is specifically not considered “Common Area”.

2.17 Condominium Parcels: Parcels A, B, C and D as depicted on the Plat, and upon which Condominium Units will be constructed.

2.18 Conversion Date: That date upon which Declarant no longer owns any Unit in the Property, or such earlier date as is selected by Declarant.

2.19 Cooking Facility: Fixtures and equipment for food storage and preparation of meals, including at least a sink, oven and refrigerator.

2.20 Declarant: Mountain West Developers, Inc., an Idaho corporation, and any party which (a) acquires from Declarant all or substantially all of its property at Aspen Ridge Phase III and (b) is designated by a

written instrument as a successor or assignee of Declarant under this Declaration. Such instrument may specify the extent and portion of the rights or interests as a Declarant which are being assigned, in which case Mountain West Developers, Inc. shall retain all other rights as Declarant.

2.21 Declaration: This Declaration and all Amendments or Supplements hereto, hereafter recorded in the real property records of Valley County, Idaho.

2.22 Default Rate: Any delinquent assessment, charge, fine, penalty or other amount payable pursuant to the terms of the Association Documents shall bear interest at the greater of eighteen percent (18%) per annum, or six (6) points above the prime rate of Wells Fargo Bank, NA or any other national banking association with offices in Boise, Idaho.

2.23 Design Guidelines or Phase III Design Guidelines: The Phase III Design Guidelines, as further described in Article 8 herein and as may be amended from time to time. Any reference in the Master Declaration to "Design Guidelines" shall, as they apply to Units in Aspen Ridge Phase III, mean the Phase III Design Guidelines.

2.24 Exclusive Common Area: Exclusive Use Common Area shall be identified as Exclusive Use Common Area in this Declaration, and is reserved for the exclusive use and ownership of the Owners in a Neighborhood. Exclusive Use Common Areas are further defined in Section 5.2, and may also be referred to as "EUCA" or "Exclusive Common Area".

(a) Exclusive Common Areas in General: Each of the four Condominium Neighborhoods shall have Exclusive Common Area which shall include the Parcel depicted on the Plat for each such Neighborhood, as further described at subsection (b) below, as well as all Buildings and improvements located thereon, except the Condominium Units, but including, without limiting the generality of the foregoing, the following components:

(i) All areas of the Parcel located outside of a Building, including but not limited to sidewalks, walkways, paths, grass, shrubbery, trees, driveways, roadways, landscaping, parking areas (except Garage Units), and related facilities; and,

(ii) All portions of a Building not defined herein as a Unit (including, but not by way of limitation, the foundation, columns, girders, beams, supports, perimeter and supporting walls, chimneys, chimney chases, roofs, patios, balconies, entrances and exits, and the mechanical installations of the Building consisting of the equipment and materials making up any central services such as power, light, gas, hot and cold water, sewer, and heating and central air conditioning which exist for use by one or more of the Owners, including the pipes, vents, ducts, flues, cable conduits, wires, telephone wire, and other similar utility installations used in connection therewith); and

(ii) All other apparatus, installations, and equipment in, affixed to or connected to a Building existing for the use of one or more of the Owners.

(b) Ownership Allocations of Exclusive Common Areas : Exclusive Common Areas are allocated among the Condominium Neighborhoods as follows:

(i) Standing Woods Condominium Neighborhood: Each Owner in this Neighborhood shall have exclusive use of all Exclusive Common Area located within Parcel A, as depicted on the Plat, and each such Unit shall have a 1/3 undivided ownership interest in such Exclusive Common Area.

(ii) Cattail Point Condominium Neighborhood: Each Owner in this Neighborhood shall have exclusive use of all Exclusive Common Area located within Parcel B, as depicted on the Plat, and each such Unit shall have a 1/6 undivided ownership interest in such Exclusive Common Area.

(iii) Woodpecker Flat Condominium Neighborhood: Each Owner in this Neighborhood shall have exclusive use of all Exclusive Common Area located within Parcel C, as depicted on the Plat, and each such Unit shall have a 1/10 undivided ownership interest in such Exclusive Common Area.

(iv) Dragonfly Glen Condominium Neighborhood: Each Owner in this Neighborhood shall have exclusive use of all Exclusive Common Area located within Parcel D, as

depicted on the Plat, and each such Unit shall have a 1/13 undivided ownership interest in such Exclusive Common Area.

2.25 Function: Any activity, function or service required under this Declaration to be undertaken or performed by the Association as well as any activity, function or service otherwise undertaken or performed by the Association.

2.26 Guest: Any customer, agent, employee, guest or invitee of an Owner, lessee, and any person or persons, entity or entities who have any right, title or interest in a Unit which is not the fee simple title to the Unit.

2.27 Living Unit: One or more rooms designed for or which may readily be occupied exclusively by one family or group of people living independently from any other family or group of people, and having not more than one Cooking Facility.

2.28 Member: A Person entitled to membership in the Association, as described at Section 3.1 of the Bylaws.

2.29 Neighborhood: A group of Units designated as a separate Neighborhood in this Section. A Neighborhood may act either through a Neighborhood Committee or Council, established in accordance with the Bylaws, or without a Neighborhood Committee if the Owners in the Neighborhood so choose. Neighborhood Designations in Aspen Ridge Phase III are as follows:

(a) **Bungalow Neighborhood:** Units 1, 2, 3, 28 – 32, and 36 – 42, for a total of 15 Bungalow Units in the Neighborhood.

(b) **Townhome Neighborhood:** Units 4 – 27, and 43 – 56, for a total of 38 Townhome Units in the Neighborhood.

(c) **Standing Woods Condominium Neighborhood:** Units 33 – 35 together with Garage Units G33 – G35, for a total of 3 Standing Woods Condominium Units in the Neighborhood.

(d) **Cattail Point Condominium Neighborhood:** Units 57 – 62 together with Garage Units G57-G62, for a total of 6 Cattail Point Condominium Units in the Neighborhood

(e) **Woodpecker Flat Condominium Neighborhood:** Units 63 – 72 together with Garage Units G63 – G72, for a total of 10 Woodpecker Flat Condominium Units in the Neighborhood.

(f) **Dragonfly Glen Condominium Neighborhood:** Units 73 – 85 together with Garage Units 73 – 85, for a total of 13 Dragonfly Glen Condominium Units in the Neighborhood.

2.30 Neighborhood Committee: A Committee, established in accordance with the Bylaws which shall represent the interests of the Neighborhood and make recommendations to the Board regarding issues of common interest to the Neighborhood, including, without limitation:

(a) the maintenance, management and improvement of Exclusive Use Common Areas within or primarily benefiting the Neighborhood;

(b) the budgeting and allocation of Benefited Unit Assessments for the Neighborhood; and,

(c) any other matters of interest to or affecting the Neighborhood or its members.

Neighborhood Committees may also be established to coordinate multiple Neighborhoods. For example, a committee could be established for all Condominium Neighborhoods.

2.31 Owner: The person or persons, entity or entities who own of record, according to the real property records of Valley County, Idaho, fee simple title to a Unit.

2.32 Person: A natural person, a corporation, a partnership, a trustee, or any other legal entity.

2.33 Plat: Any final plat recorded for Aspen Ridge Phase III, pursuant to the requirements of the City of McCall.

2.34 Property: Any and all real property which is now or may hereafter be included within Aspen Ridge Phase III, including public or private streets, roads and any public or private easements or rights-of-ways and including any and all improvements on any of the foregoing.

2.35 Property Furnished by Declarant: Any real property, any improvement or portion of any improvement on real property and any personal property or equipment with respect to which Declarant grants, assigns or conveys to the Association title, interests in, or rights of use, or with respect to which Declarant permits use by the Association or some or all Owners or Guests and any replacement of or substitute for any of the foregoing. Property Furnished by Declarant may include, but is not limited to, the access streets or streets serving Aspen Ridge Phase III; Common Areas within Aspen Ridge Phase III, walks, commons, bike paths, stairs, landscaping, trees, shrubs, ponds, seating benches, aesthetic structures, lighting, walk coverings and other common area improvements; parking areas; snow removal, maintenance or other equipment. The Association shall be obligated to, and shall accept the title to, interests in, or rights of use with respect to any Property Furnished by Declarant which may be assigned, granted, or conveyed to the Association by Declarant, subject to such reservations, restrictions and conditions as Declarant may reasonably request.

2.36 Unit: Each parcel of real property within Aspen Ridge Phase III, as reflected on a recorded Plat for such parcel, whether improved or unimproved, which may be independently owned and conveyed and which is intended for development, use, or occupancy. The boundaries of each Unit are described at Section 2.37 below. The term shall refer to the land, as well as any structures and improvements thereon. Notwithstanding the foregoing, the following shall not be considered a Unit: Common Areas; common property of the Association; property dedicated to the public; or, a parcel of property owned, held or used in its entirety by the Association, or by any governmental entity, or for or in connection with the distribution of electricity, gas, water, sewer, telephone, television or other utility service or for access to any property within or without Aspen Ridge Phase III. In the case of a parcel of vacant land or land on which improvements are under construction, and for which a Plat has been recorded with Valley County for a condominium or for multi-family housing, the parcel shall be deemed to contain the number of Units designated for such parcel in the Plat.

(a) **Bungalow Units:** Units 1, 2, 3, 28 – 32, and 36 – 42, as shown on the Plat for Aspen Ridge Phase III, for a total of 15 Bungalow Units.

(b) **Townhome Units:** Units 4 – 27, and 43 – 56, as shown on the Plat for Aspen Ridge Phase III, for a total of 38 Townhome Units.

(c) **Condominium Units:** The following Units, which are shown on the Plat for Aspen Ridge Phase III, for a total of 32 Condominium Units:

(i) **Standing Woods Condominium Units** 33 – 35 together with Garage Units G33 – G35, for a total of 3 Standing Woods Condominium Units;

(ii) **Cattail Point Condominium Units** 57 – 62 together with Garage Units G57- G62, for a total of 6 Cattail Point Condominium Units;

(iii) **Woodpecker Flat Condominium Units** 63 – 72 together with Garage Units G63 – G72, for a total of 10 Woodpecker Flat Condominium Units; and;

(iv) **Dragonfly Glen Condominium Units** 73 – 85 together with Garage Units 73 – 85, for a total of 13 Dragonfly Glen Condominium Units.

A Condominium Unit shall include the fee simple interest in and to the Condominium Unit, together with the associated Garage Unit, and together with the undivided interest in the Exclusive Common Areas allocable to each Condominium Unit at Section 2.24(b) above.

2.37 Unit Boundaries: The boundaries of each Unit shall be as follows:

(a) **Bungalow Units:** The boundaries of the Unit as shown on the Plat

(b) **Townhome Units:** The boundaries of the Unit as shown on the Plat, with ownership to the Common Wall Unit Line between Townhome Units as described at Section 10.1 below.

(c) **Condominium Units:** Condominium Units consist of enclosed rooms in the Building and are legally bounded by:

(i) the Interior Surface of Perimeter Unit Walls; and,

(ii) the Interior Surface of Subfloors, ceilings, doors and windows.

(d) **Additional Terms Related to Condominium Units:** For the purpose of defining Internal Units, the terms set forth below shall be defined as follows:

(i) **Interior Surface of Perimeter Unit Wall:** The inside surface (i.e., the inside face of the sheetrock) of a wall which forms part of the perimeter of a Condominium Unit.

(ii) **Interior Surface of Subfloor:** The surface of the subfloor of a Unit on which the visible floor covering is placed.

(iii) A Unit shall include the drywall, wall paneling, wood, tile, paint, paper, carpeting, or any other wall, ceiling, or floor covering, windows and window frames and glass, shutters, awnings, doorsteps, stoops, and interior doors and door frames. A Unit shall also include any fireplace or stove hearth, facing brick, tile or firebox. A Unit shall further include fixtures and hardware and all improvements contained within the walls, ceilings, and floors. A Unit shall include any heating and refrigerating elements or related equipment, utility lines and outlets, electrical and plumbing fixtures, pipes, and all other related equipment required to provide heating, air conditioning, hot and cold water, electrical, or other utility services to the Internal Unit and located within the walls, ceilings, and floors; provided, however, that an Internal Unit shall not include any of the structural components of the Building or utility or service lines located within the Internal Unit which serve more than one Internal Unit.

ARTICLE 3. Aspen Ridge Phase III Association

3.1 Organization: The Aspen Ridge Phase III Association, Inc. (the "Association") shall be initially organized by Declarant as an Idaho, non-profit corporation. The Association is charged with the duties and vested with the powers prescribed by law and as set forth in the Association Articles of Incorporation and Bylaws, and this Declaration.

3.2 Membership: Each Owner of a Unit within Aspen Ridge Phase III shall be a Member of the Association. Said Members shall be allocated among two classes of membership, as defined and described in the Bylaws. The two classes of membership are as follows: (1) Class A-Residential Regular Membership; and, (2) Class B-Declarant Priority Membership. The details with regard to the members of each Class, together with voting rights and the appointment of directors, are all defined and described in the Bylaws.

3.3 Aspen Ridge Homeowners' Association: The Aspen Ridge Homeowners' Association, Inc. has been previously created. In addition to membership in the Aspen Ridge Phase III Association, each owner of a Unit shall be a Member of the Aspen Ridge Homeowners' Association, Inc., and shall be entitled to one vote for each Unit owned pursuant to Section 5.3 of the Master Declaration.

3.4 Compliance with Association Documents: All members shall comply with the terms and conditions of all Association Documents and all Aspen Ridge Homeowners' Association Documents, as well as all Rules and Regulations which may be enacted by the Board pursuant to the Association Documents.

3.5 Neighborhood Designations: Neighborhood designations have been made at Section 2.29 for all Units in Aspen Ridge Phase III.

ARTICLE 4. Assessments And Other Amounts

4.1 Obligation for Assessments and Other Amounts: Declarant for each Unit it owns hereby covenants; and, each Owner, by acceptance of a deed for his Unit, whether or not it shall be so expressed in any such deed or other conveyance; shall be conclusively deemed to have covenanted and agreed to pay to the Association the Common and Special Assessments and charges, fines, penalties or other amounts, to be levied, fixed, established and collected as set forth in this Declaration and the Articles, Bylaws and rules and regulations of the Association as from time to time are in force and effect. The various types of Assessments, as described at Article 9 of the Bylaws, include the following: Common Assessments and the following Special Assessments: Phase III Special, Aspen Ridge Master, Benefited Unit, Real Estate Transfer, and Compliance Assessments. The Declarant's obligations hereunder may be satisfied in the form of cash or by "in kind" contributions of services or materials, or by a combination of these.

4.2 Purpose of Assessments and Other Amounts: The assessments levied and any charge, fine, penalty or other amount collected by the Association shall be used exclusively to pay expenses that the Association may incur in performing any actions or functions permitted or required under this Declaration, or its Articles or Bylaws as from time to time are in force and effect, including the funding of Reserve and Contingency Accounts.

4.3 Time for Payments: The amount of any assessment, charge for interest or otherwise, fine, penalty or other amount payable by any Owner or with respect to such Owner's Guests or Unit shall become due and payable as specified in the Articles or Bylaws. In addition, the Bylaws may authorize the Association, during the period of any delinquency, to suspend an Owner's voting privileges or any other privileges stemming from membership in the Association.

4.4 Lien for Assessments and Other Amounts: In addition to any other remedies specified herein or in the Bylaws, or allowed by law, the Association shall have a lien against each Unit to secure payment of any assessment, charge, fine, penalty or other amount due and owing to the Association, as provided in the Bylaws.

4.5 Liability of Owners, Purchasers and Encumbrances: The amount of any assessment, charge, fine or penalty payable by any Owner, or with respect to such Owner's Guests or Unit shall also be a joint and several personal obligation to the Association of such Owner and such Owner's heirs, personal representatives, successors and assigns. A party acquiring fee simple title to a Unit shall be jointly and severally liable with the former Owner of the Unit for all such amounts which had accrued and were payable at the time of the acquisition of fee simple title to the Unit by such party, without prejudice to such party's right to recover any of said amounts from the former Owner. Each such amount, together with interest thereon at the Default Rate and reasonable attorney's fees and costs, may be recovered by suit for a money judgment by the Association without foreclosing or waiving any lien securing the same. Notwithstanding the foregoing, the holder of a mortgage, deed of trust or other lien on a Unit shall not be liable for any such assessment, charge, fine or penalty and the lien for any such assessments, charges, fines or penalties shall be junior to any first lien on a Unit taken in good faith and for value and perfected by recording in the office of the Recorder of Valley County, Idaho, prior to the time a notice of failure to pay any such amount is recorded in said office, describing the Unit and naming the Owner of the Unit.

ARTICLE 5. Property Rights

5.1 Common Area: Every Owner in all phases of Aspen Ridge shall have a right and nonexclusive easement of use, access, and enjoyment in and to the Common Area, subject to:

- (a) The Aspen Ridge Homeowners' Association Documents, the Aspen Ridge Phase III Association Documents, and any other applicable covenants;
- (b) Any restrictions or limitations contained in any deed conveying such property to the Association;
- (c) The right of the Board to adopt rules regulating the use and enjoyment of the Common Area, including rules restricting use of any Association Facilities which may be located within the Common Area to occupants of Units and their guests and rules limiting the number of guests who may use the Common Area;
- (d) The right of the Board to suspend the right of an Owner to use any Common Area or any Association Facilities located within the Common Area (i) for any period during which any charge against such Owner's Unit remains delinquent; and, (ii) for a period not to exceed thirty (30) days for a single violation or for a longer period in the case of any continuing violation of the Declaration, the Bylaws, or rules of the Association, after notice and a hearing as provided in the Bylaws;
- (e) The right of the Association, acting through the Board, to dedicate or transfer all or any part of the Common Area pursuant to the terms of this Declaration;
- (f) The right of the Association, acting through the Board, to mortgage, pledge, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred;
- (g) The right of Declarant to place utilities within any Common Area, and the right to grant easements for the maintenance and repair of such utilities;
- (h) The right of Declarant to utilize Common Areas for snow removal storage; and,
- (i) Declarant's reserved rights described at Article 11.

Any Owner may extend his or her right of use and enjoyment to the members of his or her family, lessees, and social invitees, subject to reasonable Board regulation. An Owner who leases his or her Unit shall be deemed to have assigned all such rights to the lessee of such Unit, unless provided to the contrary in the Lease.

5.2 Exclusive Common Areas: All costs associated with maintenance, repair, replacement, and insurance of Exclusive Common Areas shall be assessed as a Benefited Unit Assessment pursuant to the Bylaws.

Declarant may construct any improvement, utilities, or fixtures within an Exclusive Common Area that Declarant, in Declarant's discretion, determines will benefit the Owners of Units assigned the exclusive use of such Exclusive Use Common Area. Additionally, such Owners may propose to the Board any improvement to such Exclusive Use Common Area that they feel will benefit such Owners.

ARTICLE 6. Certain Obligations and Rights of Aspen Ridge Phase III Association

6.1 Property Maintenance Function:

(a) **Association Facilities:** The Association shall provide for the care, operation, management, maintenance, repair and replacement of all Association Facilities, including but not limited to Common Areas, Exclusive Common Areas, Association Facilities, trails, streets and roads. Said obligation shall include, without limitation, removal of snow from and application of sand and salt to parking areas, streets, roads, walks, drives, stairs and other similar facilities as necessary for their customary use and enjoyment; maintenance and care of all common area or unimproved areas included in the Association Facilities and of plants, trees and shrubs in such common area or unimproved areas, maintenance of lighting provided for parking areas, streets, roads, walks, drives, stairs, and other similar facilities. Said obligations may also include maintenance of streets, roads, walks, drives and loading areas which are not Association Facilities as may be necessary or desirable for access to the boundary of or full utilization of Association Facility.

(b) **Maintenance of Certain Neighborhood Improvements:** Pursuant to Sections 7.1 and 7.2 below, the exterior of the Building Improvements and the landscaping on Townhome Units and Bungalow Units are to be maintained by the Association. The Exclusive Common Areas for each Condominium Neighborhood are to be maintained by the Association, pursuant to Section 7.3 below. The expense for such maintenance shall be assessed pursuant to the Bylaws as a Benefited Unit Assessment. Any Neighborhood may modify the level of maintenance provided by Association to the Neighborhood with the approval of at least 2/3 of the Owners in the Neighborhood, and the approval of the Board.

6.2 Exterior Maintenance for Compliance Function:

(a) If any Owner fails to maintain his Unit or improvements on such Unit or fails to perform any acts of maintenance or repair required under this Declaration or the Phase III Design Guidelines, the Association may provide exterior maintenance and repair upon such Unit and improvements thereon, in response to a request from the Board, pursuant to the provisions of Section 8.4, or, on its own volition, after 30 days prior written notice to the Owners and, if applicable, the Lessees of the Unit. In addition, the Association may, without notice, make such emergency repairs and maintenance as may in its judgment be necessary for the safety of any person or to prevent damage to any other property. The cost of such exterior maintenance and repair shall be assessed against the Owner of such Unit as a Compliance Assessment; shall be a lien and obligation of the Owner pursuant to Section 4.4 herein; shall be a joint and several liability of the Owners of the Unit; and, shall become due and payable in all respects as set forth in Section 4.3 herein. For the purpose of performing the exterior maintenance authorized by this Section 6.2, the Association, through its duly authorized agents or employees, shall have the right, after reasonable notice to any Owner, to enter upon such Unit during reasonable hours on any day except Saturday or Sunday. The Association or its designee is hereby granted an irrevocable license over all property in Aspen Ridge Phase III to inspect (in a reasonable manner) property within Aspen Ridge Phase III in order to determine whether any maintenance or repair is necessary under this Section 6.2.

(b) Neither Declarant, the Association, nor any of their respective directors, officers, agents or employees shall be liable for any incidental or consequential damages for failure to inspect any Unit's improvements or portion thereof or to repair or maintain the same. Declarant, the Association or any other person, firm or corporation undertaking such repairs or maintenance shall not be liable for any personal injury or other incidental or consequential damages occasioned by any act or omission in the repair or maintenance of any Unit, improvements or portion thereof.

6.3 Other Functions: The Association may undertake and perform other Functions as it deems reasonable or necessary to carry out the provisions of this Declaration.

6.4 Insurance: The Association shall obtain in its name and keep in full force and effect at all times at least the following insurance coverage: (a) casualty insurance with respect to all insurable Association Facilities, insuring such Association Facilities for the full replacement value thereof, and including coverage for fire and extended coverage, vandalism and malicious mischief; and (b) broad form comprehensive liability coverage, covering both public liability and automobile liability, with limits in amounts reasonably necessary to insure against foreseeable liability; and, (c) property damage insurance for the Condominium Units as provided at Section 11.3 below. The Association may obtain additional insurance at its discretion. All insurance may contain such deductible provisions as good business practice may dictate. All insurance shall name Declarant as an additional insured and shall, to the extent reasonably possible, cover each Owner without each Owner being specifically named. The Association shall provide to Declarant, upon request, certificates evidencing such insurance and copies of the insurance policies.

6.5 Indemnification: The Association shall be obligated to and shall indemnify Declarant and hold it harmless from all liability, loss, cost, damage and expense, including attorneys' fees, arising with respect to any operations of the Association or any Association Facilities or Functions.

6.6 Right to Make Rules and Regulations: The Association shall be authorized to and shall have the power to adopt, amend and enforce rules and regulations applicable within Aspen Ridge Phase III with respect to any Association Facility or Function, and to implement the provisions of this Declaration, the Articles or Bylaws, including but not limited to, rules and regulations to prevent or reduce fire hazard; to prevent disorder and disturbances of the peace; to regulate pedestrian and vehicular traffic; to regulate animals; to regulate the budgeting and assessment procedures according to the Association Documents; to regulate signs; to regulate use of any and all Association Facilities to assure fullest enjoyment of use by the persons entitled to enjoy and use the same; to promote the general health, safety and welfare of persons within Aspen Ridge Phase III; and to protect and preserve property and property rights. All rules and regulations adopted by the Association shall be uniformly applied, except such rules may differentiate between reasonable categories of Units or Owners. The Association may provide for enforcement of any such rules and regulations through reasonable and uniformly applied fines and penalties, through exclusion of violators from Association Facilities or from enjoyment of any Functions, or otherwise. Each Owner and Guest shall be obligated to and shall comply with and abide by such rules and regulations and pay such fines or penalties upon failure to comply with or abide by such rules and regulations and such unpaid fines and penalties shall be enforceable in accordance with Section 4.4.

In the promulgation of such Rules and Regulations, the Association shall have broad discretion and shall endeavor to maintain a community standard consistent with the intents and purposes of the Association Documents, without being limited to the literal language thereof. In the event of any challenge to any such Rule or Regulation, the Rule or Regulation shall be upheld unless it is found by clear and convincing evidence to be: (i) in express violation of the Association Documents; (ii) in express violation of an applicable federal, state, county, city or district statute, ordinance or regulation; or, (iii) arbitrary, capricious, unreasonable and

6.7 Taxes: The Association shall pay all ad valorem real estate taxes, special improvement and other assessments (ordinary and extraordinary), ad valorem personal property taxes, and all other taxes, duties, charges, fees and payments required to be made to any governmental or public authority which shall be imposed, assessed or levied upon, or arise in connection with any Association Facilities or Functions.

6.8 Coordinate with Aspen Ridge Homeowners' Association: The Association shall coordinate with the Aspen Ridge Homeowners' Association, with regard to the following: (1) architectural review by the Aspen Ridge Architectural Committee; (2) assessments due from the owners of Units in Aspen Ridge Phase III to the Aspen Ridge Homeowners' Association; and, (3) coordinate other interactions between the two associations and between the owners of lots in Aspen Ridge Phase III and the Aspen Ridge Homeowners' Association.

6.9 Governmental Successor: Any Facility and any Function may be turned over to a governmental entity which is willing to accept and assume the same upon such terms and conditions as the Association shall deem to be appropriate.

6.10 Implied Rights of the Association: The Association shall have and may exercise any right or privilege given to it expressly in this Declaration or, except to the extent limited by the terms and provisions of this Declaration, given to it by law and shall have and may exercise every other right of privilege or power and authority necessary or desirable to fulfill its obligations under this Declaration, including the right to engage labor and acquire use of or purchase property, equipment or facilities; employ personnel; obtain and pay for legal, accounting and other professional services; maintain accounts and reserve accounts; enter into contracts and subcontracts; and, to

perform any Function by, through or under contractual arrangements, licenses, or other arrangements with any governmental or private entity as may be necessary or desirable.

ARTICLE 7. Restrictions Applicable to Aspen Ridge Phase III

7.1 Limitation of Building Improvements for Bungalow Units: Bungalow Units may not contain any Building Improvements except: a Bungalow Structure; a garage of a size and at a location approved in writing by the ACC, which may be attached or detached; such driveways and parking areas as may be approved in writing by the ACC; landscaping improvements approved in writing by the ACC; and, such other improvements as may be approved in writing by the ACC.

The maintenance and repair of all landscaping and the exterior of all Building Improvements on each Bungalow Unit shall be performed by the Association, with the cost of the same to be assessed as a Benefited Unit Assessment to the Bungalow Neighborhood. See 9.10 below with regard the Landscape, Maintenance, Repair and Replacement Easement For Bungalow Units granted to provide for this maintenance and repair. The ACC shall have the authority to promulgate such rules and regulations as it determines are necessary to maintain consistency in the exteriors of the improvements in the Bungalow Neighborhood, including but not limited to restrictions as to the types of items that can be placed outside the Building Improvements, and the window coverings that can be used.

7.2 Limitation of Building Improvements for Townhome Units: Townhome Units may not contain any Building Improvements except: a Townhome Structure; a garage of a size and at a location approved in writing by the ACC, which may be attached or detached; such driveways and parking areas as may be approved in writing by the ACC; landscaping improvements approved in writing by the ACC; and, such other improvements as may be approved in writing by the ACC.

The maintenance and repair of all landscaping and the exterior of all Building Improvements on each Townhome Unit shall be performed by the Association, with the cost of the same to be assessed as a Benefited Unit Assessment to the Townhome Neighborhood. See Section 9.10 below with regard the Landscape, Maintenance, Repair and Replacement Easement For Townhome Units granted to provide for this maintenance and repair. The ACC shall have the authority to promulgate such rules and regulations as it determines are necessary to maintain consistency in the exteriors of the improvements in the Townhome Neighborhood, including but not limited to restrictions as to the types of items that can be placed outside the Building Improvements, and the window coverings that can be used.

7.3 Limitation of Building Improvements for Condominium Parcels: Condominium Parcels may not contain any Building Improvements except: the Buildings, including Garages, depicted on the Plat, as the same may be amended with the prior approval of the ACC and the City of McCall; such driveways and parking areas as may be approved in writing by the ACC; landscaping improvements approved in writing by the ACC; and, such other improvements as may be approved in writing by the ACC.

The maintenance and repair of all Exclusive Common Areas on each Condominium Parcel shall be performed by the Association, with the cost of the same to be assessed as a Benefited Unit Assessment to each Condominium Neighborhood. See Sections 9.10 and 9.11 below with regard the Landscape, Maintenance, Repair and Replacement Easement For Condominium Units granted to provide for this maintenance and repair. The ACC shall have the authority to promulgate such rules and regulations as it determines are necessary to maintain consistency in the exteriors of the improvements in each Condominium Neighborhood, including but not limited to restrictions as to the types of items that can be placed outside the Building Improvements, and the window coverings that can be used.

7.4 Setbacks: Following are the setbacks for Bungalow, Townhome and Condominium Units: All setbacks shall be according to the setbacks specified in the McCall City Code, as enacted on March 16, 2006, with the following clarifications/exceptions: (a) The rear yard setback for Units 29, 30 and 31 shall be 10'; (b) The side yard setback for all sides except the Common Wall Line for Units 43 – 56 shall be 5'; (c) For all Common Wall Lines on Townhome Units, the Common Wall Line setback shall be zero; (d) The setback from the Dragonfly Loop right of way for Unit 46 shall be 15'; (e) The side yard and rear yard setbacks on Parcels A, B, C and D-2 shall be 10'; (f) The setbacks on Parcels A, B, C and D-2 from the Spring Mountain Boulevard right of way, the Dragonfly Loop right of way, the Aspen Ridge Lane right of way and the Peninsula Place right of way shall be 20'; and, (g) The side yard and rear yard setbacks on Parcel D-1 shall be 5', and the setback from Dragonfly Loop for Parcel D-1 shall be 15'.

This Section 7.4 may not be amended without the prior approval of the City of McCall and the Board.

7.5 Parking and Recreational Vehicles / Trailers:

(a) **Required Parking Spaces:** For each Bungalow, Townhome and Condominium Unit, the following minimum parking shall be constructed: A single car garage, plus one additional parking space that is at least 9' wide and 20' long, plus one additional parking space for every two units of no less than 10' wide and 20' long. The said additional parking spaces are in addition to any driveway for a Bungalow and Townhome Unit. The additional parking spaces may be placed in the street right-of-way for Dragonfly Loop for some Units, but may not be within the paved traveled way of Dragonfly Loop. General locations of parking for each Unit are depicted on the site plan for parking attached as Appendix A to the Design Guidelines. These locations may be modified with the prior approval of the Board, and the Declarant prior to the Conversion Date. Parking spaces for each Unit must be paved, and shall be constructed prior to or concurrent with construction of each Unit.

(b) **Recreational Vehicles and Trailers / Designation of Parking:** All recreational vehicles, trailers, and trailers containing recreational vehicles shall be maintained inside a garage; or, they can be kept in a parking space associated with the Unit for a maximum of 48 hours so long as the entire vehicle or trailer fits within the confines of the parking space. Any such parking outside of a garage may be approved by the Board in its sole discretion. The Board shall have the right to promulgate additional rules and regulations with regard to parking, and with regard to the allocation or designation of parking spaces.

7.6 Design Guidelines: All Building Improvements on any Unit must be built strictly in accordance with the provisions of the Phase III Design Guidelines. By acquiring any interest in a Unit, the Owner of such Unit consents to and accepts the authority of the Aspen Ridge Architectural Committee to review and approve the plans and specifications for any Building Improvements on such Unit in accordance with the Design Guidelines in effect from time to time. In particular, such Owner recognizes that certain of the judgments which will be made by the Aspen Ridge Architectural Committee are subjective in nature, and such Owner agrees not to contest such subjective judgments unless they are made in bad faith or in an arbitrary and capricious manner.

7.7 Use of Units:

(a) **Residential Use:** The Units shall be used only for single family residential purposes with customary accessory uses, except as permitted under Section 7.7(b). Customary accessory uses shall include but not be limited to long or short term rentals to persons who use such improvements for residential or lodging purposes.

(b) **Home Office:** An Affected Unit may also be used for a Home Office, only if the Association has issued a written permit for such activity. The Association may refuse to issue a permit in its sole and absolute discretion, if, in the Association's reasonable judgment, such activity would:

- (i) create additional vehicular traffic to or from such Unit;
- (ii) employ persons at such lot other than those residing at such Unit;
- (iii) require storage of any significant materials, machinery, inventory or other items on such Unit;
- (iv) require processing of materials into finished products or the assembly of parts produced off site;
- (v) require additional parking at such lot, whether for customers, delivery or otherwise;
- (vi) be incompatible with the quiet enjoyment of the surrounding Units by such Units' Owners; or,
- (vii) otherwise violate the provisions of Article 7 or 8 of this Declaration.

Any such permit shall be issued for such period and upon such terms as the Association, in its sole discretion, deems reasonable.

7.8 Timeshares:

(a) Except as otherwise approved in writing by Declarant (or the Board after the Conversion Date), which approval can be withheld for any reason, no Unit, whether leased or owned, shall be used:

(i) for the operation of a timesharing, fraction-sharing, interval ownership or similar program whereby the right to exclusive use of the Unit rotates among participants in the program on a fixed or floating time schedule over a period of years; or,

(ii) for the operation of a reservation or time-use system among co-Owners of a Unit, regardless of whether or not any co-Owner may later opt out of such system and regardless of whether the reservation or time-use system is recorded or unrecorded, fixed or floating, if one or more of the following conditions exist:

A. such system is adopted, imposed or managed by a party other than the co-Owners themselves, or,

B. the ownership interest in such Unit is publicly marketed for sale subject to such system, or,

C. the co-Owners are or were required as a condition of purchase of the ownership interest in such Unit to subject the interest to a pre-determined reservation or time-use system among co-Owners; or,

(iii) in the marketing, offering or selling of any club membership interest, limited liability company interest, limited partnership interest, program interest or other interest whereby the interest-holder acquires a right to participate in a reservation or time-use system among the interest-holders, or among the interest-holders and others, involving the Unit, or involving the Unit and other alternate or substitute properties, regardless of whether such interest is equity or non-equity, regardless of whether or not any interest-holder may later opt out of such system and regardless of whether the reservation or time-use system is recorded or unrecorded, fixed or floating (such interest referred to herein as an "Interest"), if one or more of the following conditions exist:

A. such system is adopted, imposed or managed by a party other than the Interest-holders themselves, or,

B. the Interest is publicly marketed for sale, or,

C. the Interest-holders are or were required as a condition of purchase of the Interest to be subject to a pre-determined reservation or time-use system among Interest-holders, or among Interest-holders and others;

(all of the foregoing uses, systems or programs are collectively referred to as a "Timeshare Program").

(b) Mere co-ownership of a Unit, ownership of a Unit by an entity, or leasing of a Unit shall not create a Timeshare Program unless it meets any of the conditions described above in this Section 7.8. The definition of Timeshare Program expressly excludes (i) the voluntary inclusion of a Unit in a rental pool program, whether managed by the Owner or a party other than the Owner; and, (ii) any activities, programs, or offerings of the Association.

7.9 Outside Burning: There shall be no exterior fires, except barbecues operated reasonably and in accordance with Rules and Regulations, and such outside fire facilities, operated by the Association or the Owner of a Commercial Unit, as may be approved by the Association. No Owner shall permit any condition upon a Unit which creates a fire hazard or is in violation of fire prevention regulations.

7.10 Additional Restrictions: Upon such conditions as are deemed necessary by the ACC to maintain compliance with the intents and purposes of the Association Documents, additional restrictions on the use of Property within Aspen Ridge Phase III shall be provided in Supplemental Declarations, the Design Guidelines and/or Rules and Regulations promulgated by the Board.

7.11 General Use Guidelines and Restrictions: The following guidelines and restrictions are applicable to all Property within Aspen Ridge Phase III:

- All terms and conditions of the Aspen Ridge Phase III Association Documents and the Aspen Ridge Homeowners' Association Documents;

- All Notes contained on any final plat;

•All terms and conditions imposed by the City of McCall or any state or federal agency, including but not limited to the Army Corps of Engineers, the Idaho Department of Water Resources, and the Idaho Department of Environmental Quality.

ARTICLE 8. Design Review

8.1 Aspen Ridge Architectural Committee : Owners of Units in Aspen Ridge Phase III are subject to design review by the Aspen Ridge Architectural Committee. The design guidelines, however, pursuant to which the Aspen Ridge Architectural Committee will make its determination will be specific to Aspen Ridge III, as described below.

8.2 Phase III Design Guidelines: The Declarant, and/or the Association (as provided below) shall promulgate and publish rules and regulations that shall state the general design theme of all projects in Aspen Ridge Phase III, specific design requirements, and the general construction procedures that will or will not be allowed in Aspen Ridge Phase III. The Design Guidelines may contain general provisions applicable to all of Aspen Ridge Phase III, as well as specific provisions which vary from one portion of the Aspen Ridge Phase III to another depending upon the location, unique characteristics, and intended use.

8.3 Amendment of Design Guidelines: The Design Guidelines may be amended as follows: the AR III Board may propose amendments to the Aspen Ridge Homeowners Association Board; and, any such amendments must be approved in writing by the Aspen Ridge Homeowners Association Board of Directors, which approval shall be reasonably given so long as the amendments do not reduce the quality of the improvements or reduce setbacks; and, until such time as the Declarant no longer owns any Units in Aspen Ridge Phase III, the amendment must be approved in writing by the Declarant.

Any amendments to the Design Guidelines shall apply to construction and modification of structures and improvements commenced after the date of such amendment only and shall not apply to require modifications to or removal of Structures previously approved once the approved construction or modification has commenced; provided, the construction or modification has proceeded in accordance with the plans and specification therefore, as approved.

The ACC shall make the Design Guidelines available to Owners and Builders who seek to engage in development or construction within Aspen Ridge Phase III, and all such Persons shall conduct their activities in accordance with such Design Guidelines. **THE BURDEN SHALL BE ON THE OWNER AND THE BUILDER TO ENSURE THAT THEY HAVE THE MOST CURRENT DESIGN GUIDELINES.**

8.4 Exterior Maintenance: Pursuant to the provisions of Section 6.2, the Board may, by vote of a majority of the Board members present at any meeting, after 30 days notice to the Owner, request that the Association provide exterior maintenance and repair upon any Unit.

8.5 Liability: Neither Declarant, the Association nor the ACC nor any of their respective officers, directors, employees or agents shall be responsible or liable to any person for any defects in any plans or specifications submitted, revised or approved under this Article 8 nor for any defects in construction performed pursuant to such plans and specifications. Approval of plans and specifications under this Article 8 shall not relieve the Owner of strict compliance with applicable governmental laws or regulations.

ARTICLE 9. Easements

9.1 Easements of Encroachment: There shall be reciprocal appurtenant easements of encroachment, and for maintenance and use of any permitted encroachment, between each Unit and adjacent Exclusive Common Area and between adjacent Units due to the unintentional placement or settling or shifting of the improvements constructed, reconstructed, or altered thereon (in accordance with the terms of these restrictions) to a distance of not more than three feet, as measured from any point on the common boundary along a line perpendicular to such boundary. However, in no event shall an easement for encroachment exist if such encroachment occurred due to willful and knowing conduct on the part of, or with the knowledge and consent of, an Owner, occupant, or the Association.

9.2 Easements for Utilities, Etc.: There are hereby reserved unto Declarant, so long as the Declarant owns any property subject to this Declaration, the Association, and the designees of each (which may include, without limitation, Valley County, the City of McCall and any utility) access and maintenance easements upon, across, over, and under all of Aspen Ridge Phase III to the extent reasonably necessary for the purpose of constructing, replacing, repairing, and maintaining: cable television systems, master television antenna systems,

security and similar systems, communications systems, streets, walkways, bicycle pathways, trails, ponds, wetlands, drainage systems, surface water management facilities, street lights, signage, and all utilities, including, but not limited to, water, sewers, meter boxes, telephone, and electricity, and for the purpose of installing any of the foregoing on property which it owns or within easements designated for such purposes on recorded plats of Aspen Ridge Phase III. This easement shall not entitle the holders to construct or install any of the foregoing systems, facilities, or utilities over, under or through any existing dwelling on a Unit, and any damage to a Unit resulting from the exercise of this easement shall promptly be repaired by, and at the expense of, the Person exercising the easement. The exercise of this easement shall not unreasonably interfere with the use of any Unit and, except in an emergency, entry onto any Unit shall be made only after reasonable notice to the Owner or occupant.

Additionally, Declarant reserves the right to construct utilities and irrigation facilities within any Utility Easement, street and street right of way, and within any Common Area parcel which is depicted on the Plat, and to grant easements for the repair and maintenance of any such utility or irrigation facility. Additionally, snow may be placed within any Utility Easement abutting a street, for the placement of snow plowed, blown or otherwise cleared from driveways, streets, or Common Area parcel. No Building Improvements shall be constructed within any Utility Easement other than utility or irrigation-related improvements, or as may be permitted pursuant to the Design Guidelines. All Utility Easements are reserved in perpetuity.

9.3 Easements for Collection of Storm Water Runoff and Flood Water: The Declarant reserves for itself, and its successors, assigns, and designees the nonexclusive right and easement, but not the obligation, to enter upon any property to (a) install, keep, maintain, and replace irrigation ditches, equipment or systems; (b) construct, maintain, and repair any structure designed to divert, collect or retain water; and (c) remove trash and other debris. The Declarant's rights and easements provided in this Section shall be transferred to the Association at such time as the Declarant shall cease to own any property subject to the Declaration, or such earlier time as Declarant may elect, in its sole discretion, to transfer such rights by a written instrument.

9.4 Easements for Maintenance, Emergency, and Enforcement: Declarant grants to the Association easements over Aspen Ridge Phase III as necessary to enable the Association to fulfill its maintenance responsibilities under Article 6. The Association shall also have the right, but not the obligation, to enter upon any Unit for emergency, security, and safety reasons, to perform maintenance and to inspect for the purpose of ensuring compliance with and enforce the Association Documents, after prior written notice to the Owner(s) of the Unit. Such right may be exercised by any member of the Board and its duly authorized agents and assignees, and all emergency personnel in the performance of their duties. Except in an emergency situation, entry shall only be during reasonable hours and after reasonable notice to the Owner. This right of entry shall include the right of the Association to enter upon any Unit to cure any condition which may increase the possibility of a fire or other hazard in the event an Owner fails or refuses to cure the condition within a reasonable time after requested by the Board, but shall not authorize entry into any single or multi family detached dwelling without permission of the Owner, except by emergency personnel acting in their official capacities.

9.5 Compliance With Wetlands Permit: All Owners purchase their Units with the knowledge that Aspen Ridge Phase III contains jurisdictional wetlands, which are governed by the terms of Aspen Ridge Phase III's Wetlands Permit(s), and the terms and conditions associated therewith. By purchasing their Units, Owners agree to comply with and be bound by the terms and conditions of the Permits.

9.6 View Impairment: Neither the Declarant or the Association guarantees nor represents that any view over and across any Common Area parcel, or any Unit from adjacent Units will be preserved without impairment. Neither the Declarant, the Association, nor the Owner of a Unit shall have an obligation to prune or thin trees or other landscaping. In addition, the Declarant, the Association, or an Owner may add trees and other landscaping, and construct improvements, all subject to the Design Guidelines and the approval of the ACC. Any such improvements may diminish or obstruct any view from the Units and any express or implied easements for view purposes or for the passage of light and air are hereby expressly disclaimed.

9.7 Utility Easement: Declarant reserves the right to construct utilities within any Utility Easement, Street right-of-way, or Common Area Parcel which is depicted on the Plat.

9.8 Snow Storage Easement: An easement is reserved within any Snow Removal Easement and within any Common Area which is depicted on the Plat for the placement of snow plowed, blown or otherwise cleared from driveways, streets, or other Common Area. An easement is also reserved on and across all lots in Aspen Ridge Phase III, in all reasonable locations where no Building Improvements, driveways or walkways exist, for the placement of such snow. Additionally, an easement is reserved on and across Parcel A, Parcel B, Parcel C,

and Parcels D-1 and D-2, in all reasonable locations where no Building Improvements, driveways, parking or walkways exist, for the placement of such snow.

9.9 Drainage Easement: The Drainage Easements depicted on the Plat are reserved for the Association, for drainage through the parcels upon which easements are depicted. There shall be no improvements constructed in the Drainage Easements, except as follows: a driveway shall be allowed across a Drainage Easement, however a culvert must be used to allow for the continued, unrestricted drainage in the Drainage Easement, the design of which shall be reviewed and approved by the ACC; and, other improvements may be made if the ACC determines, in its discretion, that the proposed improvement allows for the continued, unrestricted drainage in the Drainage Easement.

9.10 Landscape, Maintenance, Repair and Replacement Easement For Bungalow, Townhome and Condominium Units: The Association shall maintain the exteriors of all Building Improvements and all Landscaping on Bungalow and Townhome Units, and all Exclusive Common Areas for Condominium Units, as provided at Sections 7.1, 7.2 and 7.3 above. The Association is hereby granted an irrevocable easement on and across each Bungalow, Townhome and Condominium Unit, during reasonable hours and as necessary for the maintenance, repair or replacement of all landscaping and the exteriors of all Building Improvements located on the Bungalow and Townhome Unit. Damage to the interior of any part of a Building Improvement resulting from such maintenance, repair, emergency repair, or replacement, shall be an expense of the Association; provided, however, that if such damages result from the negligence of the Owner of the Unit, then such Owner shall be responsible for all of such damages.

9.11 Easements of Access to Condominium Units for Repair, Maintenance, and Emergencies: Some of the Exclusive Common Areas are or may be located within the Units or may be conveniently accessible only through the Units. The Owners of other Units and the Association shall have the irrevocable right, to be exercised by the Association as the Owners' agent, to have access to each Unit and to all Exclusive Common Areas from time to time during such reasonable hours as may be necessary for the maintenance, repair, removal, or replacement of any of the Common Areas therein or accessible there from or for making emergency repairs therein necessary to prevent damage to the Common Areas or to any Unit. At least two days prior notice shall be given to the Owner of the Unit prior to entering into the Unit, except in the case of emergency where such delay would cause damage to any Unit or Exclusive Common Area. Damage to the interior of any part of a Unit resulting from the maintenance, repair, emergency repair, removal, or replacement of any of the Common Areas or as a result of emergency repair within another Unit at the instance of the Association or of Owners shall be a Benefited Unit Expense, except when such damage is caused by the negligent or willful act or omission of an Owner, their guests or invitees.

9.12 Pond Maintenance Easement: An easement is reserved on and across Common Area I for the City of McCall to access the pond and adjacent wetlands located on Common Area I, in order to fulfill its obligations under the Golf Course Long Term Maintenance and Operation Agreement, recorded with the Valley County, Idaho Recorder as Instrument No. 215999 on January 19, 1996 and as Instrument No 217888 on May 3, 1996. The Board may reasonably restrict access to only those portions of Common Area I necessary for such maintenance.

ARTICLE 10. Townhomes – Ownership and Maintenance of Common Wall – Architectural Control

10.1 Ownership to Center of Common Wall Unit Line: A Common Wall Unit Line is shown on the Plat, between each set of Townhome Units which will share a common wall. The Common Wall Unit Line is intended to run along the center of the common wall of the Townhome Structure and any garage between the two Townhome Units that rest on either side of said Common Wall Unit Line (“Common Wall”). Ownership of a Townhome Unit shall run to the center of the Common Wall.

10.2. Responsibility of the Owner: The Owner at the Owner's expense shall maintain and keep in repair the improvements within the Common Wall which is a part of their Townhome Unit, along with associated Building Improvements, including the fixtures and utilities located in such Townhome Unit to the extent current repair shall be necessary in order to avoid damaging the Building Improvements on the adjoining Townhome Unit. An Owner shall not allow any action or work that will impair the structural soundness of the improvements, impair the proper functioning of the utilities, heating, ventilation, or plumbing systems located within the Common Wall, or integrity of the Building Improvements located on their own Townhome Unit or the adjoining Townhome Unit. An Owner shall not be responsible for repair occasioned by casualty occurring on the adjoining Townhome Unit, unless such casualty is due to the act or negligence of the Owner, or guests, invitees,

or tenants of such Owner, as provided in Section 10.4 below. An Owner is responsible for all repair resulting from a casualty occurring within their Townhome Unit.

10.3. Responsibility of the Association: Notwithstanding any provisions to the contrary contained in this Declaration, the Association have no responsibility for any repairs or maintenance of utilities, heating, ventilation, or plumbing systems, or other facilities located inside of a Common Wall. The Association's only responsibility is for maintenance of the exterior of the Building Improvements and the landscaping, as provide at Section 7.2 and 9.10 above.

10.4. Owner's Negligence. In the event that the need for maintenance, repair or replacement of all or any portion of the Common Wall or of any utilities, heating, ventilation, or plumbing systems, or other facilities located inside of a Wall is caused through or by the negligent or willful act or omission of an Owner, or by any member of an Owner's family, or by an Owner's guests, invitees, licensees or tenants, or by the negligent construction of such facilities, then the expenses incurred by the Association for such maintenance, repair or replacement shall be a personal obligation of such Owner. If the Owner fails to repay expenses incurred by the Owner of the adjoining Townhome Unit within thirty (30) days after notice to the Owner of the amount owed, then the Owner of the adjoining Townhome Unit may request that the Association assess such cost against the Owners as a Compliance Assessment as provided in the Bylaws.

10.5 Rights With Respect to Remodeling and Construction: In addition to all requirements of the Phase III Design Guidelines, the Owners of Towhome Units may make no change or alteration to Building Improvements located thereon if such change or alteration affects or impacts the Common Wall, until plans and specifications showing the precise nature of the change or alteration shall have been submitted to and approved in writing by the ACC. Examples of changes or alterations that would be subject to review by the ACC include but are not limited to replacing cabinets that abut the Common Wall, or remodels that would require plumbing or electrical work in the Common Wall. Replacement of existing floor coverings, wall coverings, and other modifications to the interior of the Building Improvements that do not affect the Common Wall, may be undertaken without such approval. All Owners are advised that there may be noise or other disturbance due to such construction activities. Subject to the ACC's discretion and the type of proposed alteration or change, such plans and specifications shall, at a minimum, include detailed specifications with regard to all work to be completed in, near or affecting the Common Wall and the timeframe for commencement and completion of the work. The ACC may exercise its sole discretion when considering a request under this Section. No improvements shall be commenced until plans for the improvements shall have been approved by the ACC. All improvements shall be constructed only in accordance with approved plans. The ACC shall not be subject to liability in the event that the construction of any alteration negatively affects the Owner of the adjoining Townhome Unit. All such liability shall remain with the Owner performing such construction.

ARTICLE 11. Provisions Specific to Condominium Units

11.1 Maintenance Responsibility:

(a) **Owner's Rights and Duties with Respect to Interiors:** Each Owner shall have the exclusive right and duty to maintain and repair the interior surfaces of the walls, floors, ceilings, and doors forming the boundaries of such Owner's Unit and all walls, floors, ceilings, and doors within such boundaries, including, without limitation painting of interior surfaces. At an Owner's option, an Owner may paint, paper, or otherwise decorate or redecorate the Condominium Unit.

(b) **Responsibility of the Owner:** The Owner at the Owner's expense shall maintain and keep in repair the interior of the Condominium Unit, including the fixtures and utilities located in the Condominium Unit to the extent current repair shall be necessary in order to avoid damaging other Condominium Units or the Exclusive Common Areas. All fixtures, equipment, and utilities installed and included in a Unit commencing at a point where the fixtures, equipment, and utilities enter the Unit shall be maintained and kept in repair by the Owner of that Unit. An Owner shall not allow any action or work that will impair the structural soundness of the improvements, impair the proper functioning of the utilities, heating, ventilation, or plumbing systems or integrity of the Building, or impair any easement or hereditament. An Owner shall not be responsible for repair occasioned by casualty occurring outside a Unit, unless such casualty is due to the act or negligence of the Owner, or guests, invitees, or tenants of such Owner. An Owner is responsible for all repair resulting from a casualty occurring within, or affecting the inside of, a Unit. No Owner shall alter any Exclusive Common Areas without the prior written consent of the Association.

(c) **Responsibility of the Association:** Notwithstanding any provisions to the contrary contained in this Declaration, the Association shall be solely responsible for all repairs and maintenance of all utilities, heating, ventilation, or plumbing systems, or other facilities located inside of a Wall (i.e., a Perimeter Unit Wall, a Perimeter Building Wall, a Demising Wall or an Internal Wall). There is hereby reserved in the Association an exclusive, permanent and perpetual easement for purposes of conducting such maintenance and repairs to all the interior space within all Walls which would otherwise be considered part of a Unit. This easement shall include the right to access such Walls through Units as necessary to perform such maintenance and repairs. Owners shall have the right to access and perform work on any such facilities located inside of Walls only as necessary in case of emergency to prevent damage to their's or others' Units, and only after notifying the Association of the existence of the emergency. The cost of such repairs and maintenance shall be considered a Common Expense of the Association, except in the case of repairs or maintenance resulting from the negligence of an Owner. The Association, without the requirement of approval of the Owners, shall maintain and keep in good repair, replace, and improve, as a Common Expense, all the Condominium Neighborhood not required in this Declaration to be maintained and kept in good repair by an Owner.

11.2 Conveyances and Taxation of Condominium Units :

(a) **Contracts to Convey and Conveyances:** Contracts to convey, instruments of conveyance of Condominium Units, and every other instrument affecting title to a Condominium Unit shall be in substantially the following form with such omissions, insertions, recitals of fact, or other provisions as may be required by the circumstances or appropriate to conform to the requirements of any governmental authority or any usage or requirement of law with respect thereto:

Unit Nos. _____ and G___ of the Aspen Ridge III Plat, as the same was recorded and platted of record on _____, 200___ with the Office of Recorder of Valley County, Idaho, as Instrument No. _____.

(b) **Conveyance Deemed to Describe an Undivided Interest in Exclusive Common Areas:** Every instrument of conveyance, Mortgage, or other instrument affecting the title to a Condominium Unit which legally describes the Unit substantially in the manner set forth in Section 11.2(a) above shall be construed to describe the Unit, together with the undivided interest in the Exclusive Common Areas appurtenant to it, and together with all fixtures and improvements contained in it (unless any such fixtures or improvements shall be Exclusive Common Areas), and to incorporate all the rights incident to ownership of a Condominium Unit and all the limitations of ownership as described in the covenants, conditions, restrictions, easements, reservations, rights-of-way, and other provisions contained in this Declaration, including the easement of enjoyment to use the Common Areas.

(c) **Separate Tax Assessments:** Upon the recording of this Declaration and the recording of the Plat of record in Valley County, Idaho, all taxes, assessments, and other charges by the State or any governmental or political subdivision or any special improvement district or any other taxing agent or assessing authority shall be assessed against and collected on each Condominium Unit, each of which shall be carried on the tax records as a separate and distinct parcel for that purpose. For the purpose of such assessment against the Condominium Units, valuation of the Exclusive Common Areas shall be apportioned among the Units in proportion to the fractional interest in the Exclusive Common Areas appurtenant to such Units.

The lien for taxes assessed to the Owner or Owners of a Condominium Unit shall be confined to his Unit and to his appurtenant undivided interest in the Common Areas. No forfeiture or sale of any Condominium Unit for delinquent taxes, assessment, or other governmental charge shall divest or in any way affect the title to any other Condominium Unit.

(d) **Reservation and Grant of Right to Amend Plat:** Declarant hereby reserves the right to amend the Plat to conform the Plat to the Units, as constructed. By purchase of a Condominium Unit, each Owner hereby designates Declarant as such Owner's attorney in fact for purposes of filing such an amended Plat and specifically grants Declarant the authority to do so on behalf of such Owner, without further consent from or notice to such Owner. Additionally, Declarant shall have the right to amend the plat for any Condominium Neighborhood prior to the closing of the sale of any Units in the Neighborhood.

11.3 **Insurance:** It is recognized and acknowledged by each person who purchases a Condominium Unit that the availability of various insurance coverages fluctuates and changes over time, as does the cost of such

coverages. As such, the Board and Declarant shall not be liable for failure to obtain any coverage required by this Section or for any loss or damage resulting from such failure if such failure is due to the unavailability of such coverage from reputable insurance companies, or if such coverage is available only at a cost which, in the Board's reasonable discretion, is unreasonable.

(a) **Property Damage Insurance:** The Board shall obtain and maintain in full force and effect property damage insurance on all insurable improvements located on or constituting part of each Condominium Neighborhood (including, without limitation, the Exclusive Common Areas and the Units, together with, unless the Board directs otherwise, the fixtures, equipment and other personal property initially installed in the Units and replacements thereof up to the value of those initially installed by Declarant, but not including furniture, wall coverings, improvements, additions or other personal property supplied or installed by Owners), together with all fixtures, building service equipment and common personal property and supplies of the Association, and heating equipment and other service machinery contained therein and covering the interests of the Owners and their Mortgagees, as their interests may appear. The insurance shall be carried in an amount equal to full replacement value (i.e., 100% of the current "replacement cost" exclusive of land, foundation, excavation, depreciation on personal property and other items normally excluded from coverage), and shall include a replacement cost endorsement and an agreed amount endorsement waiving the requirement of coinsurance.

(b) **Other Insurance:** The Association may obtain insurance against such other insurable risks of a similar or dissimilar nature as it deems appropriate with respect to the Association's responsibilities and duties.

(c) **Notice to Owners:** The Board shall initially furnish Owners with notice of the insurance coverage which is in effect for the Condominium Neighborhood. Thereafter, the Board shall promptly furnish to each Owner written notice of materially adverse changes in, cancellation or termination of, insurance coverage obtained on behalf of the Association under this Section, such notice to be delivered to all Owners by such methods as required by the Association Documents. The notice (which may be issued in the form of a subpolicy relating to a master policy, if the Board obtains a master policy), shall specify the insurance coverage in effect on the Owner's Condominium Unit.

(d) **Insurance Obtained by Owners:** It shall be the responsibility of each Owner, at such Owner's expense, to maintain property damage insurance on such Owner's personal property and furnishings and public liability insurance covering such Owner's Unit. In addition, an Owner may obtain such other and additional insurance coverage on and in relation to the Owner's Condominium Unit as the Owner, in the Owner's sole discretion, shall conclude to be desirable. However, no such insurance coverage obtained by the Owner shall operate to decrease the amount which the Board, on behalf of all Owners, may realize under any policy maintained by the Board or otherwise affect any insurance coverage obtained by the Association or cause the diminution or termination of that insurance coverage. An Owner shall be liable to the Association for the amount of any such diminution of insurance proceeds to the Association resulting from insurance coverage maintained by the Owner, and the Association shall be entitled to collect the amount of the diminution from the Owner as if the amount were a Compliance Assessment, with the understanding that, in addition to any other remedies available to the Association hereunder and in the Bylaws for the collection of fees and assessments, the Association may impose and foreclose a lien for the payment due. Any insurance obtained by an Owner shall include a provision waiving the particular insurance company's right of subrogation against the Association and other Owners, including Declarant, should Declarant be the Owner of any Condominium Unit.

The Board may require an Owner who purchases additional insurance coverage for the Owner's Condominium Unit (other than coverage for the Owner's personal property) to file copies of such policies with the Association within thirty (30) days after purchase of the coverage to eliminate potential conflicts with any master policy carried by the Association.

(e) **Allocation of Insurance Costs:** All costs associated with insurance associated with the Condominium Neighborhoods shall be assessed as a Benefited Unit Assessment pursuant to the Bylaws.

11.4 Association as Attorney-In-Fact : Each Owner hereby irrevocably appoints the Association as the Owner's true and lawful attorney-in-fact in such Owner's name, place and stead for the purposes of dealing with a Condominium Neighborhood upon its damage or destruction as provided in Section 11.5, or a complete or partial taking as provided in Section 11.7 below. In addition, the Association, or any insurance trustee or

substitute insurance trustee designated by the Association, is hereby appointed as attorney-in-fact under this Supplemental Declaration for the purpose of purchasing and maintaining insurance under Section 11.3 above and to represent the Owners in any condemnation proceeding under Section 11.7 below including: the collection and appropriate disposition of the proceeds of such insurance or any condemnation award; the negotiation of losses and the execution of releases of liability; the execution of all documents; and the performance of all other acts necessary to accomplish such purpose. The Association, or any insurance trustee, shall hold or otherwise properly dispose of any insurance proceeds in trust for the Owners and their Mortgagees, as their interests may appear. Acceptance by a grantee of a deed or other instrument of conveyance from Declarant or any other Owner conveying any portion of the Affected Property shall constitute appointment of the Association as the grantee's attorney-in-fact, and the Association shall have full authorization, right, and power to make, execute, and deliver any contract, assignment, deed, waiver, or other instrument with respect to the interest of any Owner which may be necessary to exercise the powers granted to the Association as attorney-in-fact.

11.5 Damage or Destruction :

(a) **The Role of the Board:** Except as provided in Section 11.5(f), in the event of damage to or destruction of all or part of any Condominium Unit, Exclusive Common Areas, or other property covered by insurance written in the name of the Association under Section 11.3, the Board shall arrange for and supervise the prompt repair and restoration of the damaged areas of the Condominium Neighborhood, including, without limitation, the floor coverings, fixtures, and appliances initially installed therein by Declarant, and replacement thereof installed by the Owners up to the value of those initially installed by Declarant, but not including any furniture, furnishings, fixtures, equipment, or other personal property supplied or installed by the Owners in the Condominium Units unless covered by insurance obtained by the Association. Notwithstanding the foregoing, each Owner shall have the right to supervise the redecorating of his Unit.

(b) **Estimate of Damage or Destruction:** As soon as practicable after an event causing damage to or destruction of any part of the Condominium Neighborhood, unless such damage or destruction shall be minor, the Board shall obtain an estimate or estimates that it deems reliable and complete of the costs of repair and reconstruction of that part of the Condominium Neighborhood damaged or destroyed. "Repair and reconstruction" as used in this Section 11.5 shall mean restoring the damaged or destroyed part of the Condominium Neighborhood to substantially the same condition in which it existed immediately prior to the damage or destruction, with each Unit and the Exclusive Common Areas having substantially the same vertical and horizontal boundaries as before.

(c) **Repair and Reconstruction:** As soon as practical after the damage occurs and any required estimates have been obtained, the Association shall diligently pursue to completion the repair and reconstruction of that part of the Condominium Neighborhood damaged or destroyed. As attorney-in-fact for the Owners, the Association may take any and all necessary or appropriate action to effect repair and reconstruction, and no consent or other action by any Owner shall be necessary. Assessments of the Association shall not be abated during the period of insurance adjustments and repair and reconstruction.

(d) **Funds for Repair and Reconstruction:** Subject to the provisions of Section 11.5(f) below, the proceeds received by the Association from any hazard insurance carried by the Association shall be used for the purpose of repair and reconstruction. If the proceeds of the Association's insurance are insufficient to pay the estimated or actual cost of such repair and reconstruction, the Association may, according to the provisions of the Bylaws, levy, assess, and collect in advance from the Owners a Special Assessment sufficient to provide funds to pay such estimated or actual costs of repair and reconstruction.

(e) **Disbursement of Funds for Repair and Reconstruction:** The insurance proceeds held by the Association and the amounts received from the Special Assessments provided for above, constitute a fund for the payment of the costs of repair and reconstruction after casualty. Such fund shall be applied by the Association as attorney-in-fact for such reconstruction, and the improvements shall be promptly repaired and reconstructed. The Association shall have full authority, right, and power, as attorney-in-fact to cause the repair and restoration of the improvements. It shall be deemed that the first money disbursed in payment for the costs of repair and reconstruction shall be made from insurance proceeds, and the balance from the Special Assessments. If there is a balance remaining after payment of all costs of such repair and reconstruction, such balance shall be distributed to the Owners in proportion to the contributions each Owner made as Special Assessments, or if no Special Assessments were made, then in proportionate shares

on the basis of the allocation to the Owners of the expense, as provided herein and in the Bylaws, first to the Mortgagees and then to the Owners, as their interests appear.

(f) Decision Not to Rebuild: Any portion of a Condominium Neighborhood for which insurance is required pursuant to the provisions of this Supplemental Declaration which is damaged or destroyed must be repaired or replaced promptly by the Association unless:

- (i) The project is terminated pursuant to Section 11.6 below;
- (ii) Repair or replacement would be illegal under any state or local statute or ordinance governing health or safety;
- (iii) Owners representing at least 80% of votes in the Association, including the vote of every Owner of a Condominium Unit or Exclusive Common Area that will not be rebuilt and including, prior to the Conversion Date, as well as the Declarant, as well as at least 51% of Eligible Mortgage Holders (based on one vote for each Mortgage owned), vote not to repair and reconstruct the Condominium Neighborhood; or
- (iv) Prior to the conveyance of a Unit to a person other than the Declarant, the holder of a deed of trust or mortgage on the damaged portion of the Condominium Neighborhood rightfully demands all or a substantial part of the insurance proceeds.

If the entire Condominium Neighborhood is not repaired or replaced, the insurance proceeds attributable to the damaged Exclusive Common Areas must be used to restore the damaged area to a condition compatible with the remainder of the Condominium Neighborhood, and, except to the extent that other persons will be distributees, the insurance proceeds attributable to Units and Exclusive Common Areas that are not rebuilt must be distributed to the Owners of those Units and the Owners of the Units to which those Exclusive Common Areas were allocated, or to lienholders, as their interests may appear, and the remainder of the proceeds must be distributed to all the Unit Owners or lienholders, as their interests may appear, in proportion to the Exclusive Common Areas interests of all the Units in the Neighborhood, as set forth herein.

(g) Repairs: All repairs and reconstruction contemplated by this Section 11.5 shall be performed substantially in accordance with this Supplemental Declaration, the Plat, and the original plans and specifications for the Condominium Neighborhood, unless other action is approved by the Association in accordance with the requirements of this Supplemental Declaration and the other Association Documents.

(h) Notice of Damage or Destruction to First Mortgagees: In the event that any portion of the Condominium Neighborhood encompassing more than one Unit is substantially damaged or destroyed by fire or other casualty, then written notice of the damage or destruction shall be given by the Association to each Owner and First Mortgagee of the affected Units within a reasonable time following the event of casualty damage.

11.6 Termination of a Condominium Neighborhood

(a) Adoption of Termination Agreement: Except in the case of a taking of all of the Units by eminent domain, a Condominium Neighborhood and this Supplemental Declaration with regard thereto may be terminated by the agreement of 67% of the total votes eligible to be cast in the Condominium Neighborhood, as well as at least 67% of the First Mortgagees (based on one vote for each First Mortgage owned) of record at the time of the adoption of such plan. The approval of a First Mortgagee will be assumed when an Eligible Mortgage Holder fails to submit a written response to the proposed termination within fifteen (15) days after it receives proper notice of the proposal, provided the notice was delivered by certified or registered mail, with a "return receipt" requested. The agreement of Owners to terminate must be evidenced by their execution of a termination agreement or ratifications thereof in the same manner as a deed, by the requisite number of Owners. The termination agreement must specify a date after which the agreement will be void unless it is recorded before that date. The termination agreement and all ratifications thereof must be recorded in Valley County, Idaho and is effective only upon recordation.

(b) Sale of the Property: The termination agreement may provide that all of the Exclusive Common Areas and Units of the Condominium Neighborhood must be sold following termination. If, pursuant to the agreement, any real estate in the Condominium Neighborhood is to be sold following

termination, the termination agreement must set forth the minimum terms of sale. Subject to the provisions of the termination agreement, the Association, on behalf of the Owners, may contract for the sale of real estate in the Condominium Neighborhood following termination, but the contract is not binding on the Owners until approved pursuant to Section 11.6(a) above. If any real estate is to be sold following termination, title to that real estate, upon termination, vests in the Association as trustee for the holders of all interests in the Units. Thereafter, the Association has all the powers necessary and appropriate to effect the sale. Until the sale has been concluded and the proceeds thereof distributed, the Association continues in existence with all the powers it had before termination. Proceeds of the sale must be distributed to Owners and lienholders as their interests may appear in accordance with Section 11.6(d) below, taking into account the value of property owned or distributed that is not sold so as to preserve the proportionate interests of each Owner with respect to all property cumulatively. Following termination of the Condominium Neighborhood, the proceeds of any sale of the Condominium Neighborhood, together with the assets of the Association, are held by the Association as trustee for the Owners and holders of liens on the Units as their interests may appear. Creditors of the Association who obtain a lien and duly record it in Valley County, Idaho, are to be treated as if they had perfected liens on the Units immediately before termination or when the lien is obtained and recorded, whichever is later. Unless otherwise specified in the termination agreement, as long as the Association holds title to the Condominium Neighborhood, each Owner and the Owner's successors in interest have an exclusive right to occupancy of the portion of the Condominium Neighborhood that formerly constituted the Unit. During the period of that occupancy, each Owner and the Owner's successors in interest remain liable for all Assessments and other obligations imposed on Owners by the Declaration.

(c) **Status of Property Not Sold:** Title to the Units not to be sold following termination vests in the Owners upon termination as tenants in common in fractional interests that maintain, after taking into account the fair market value of property owned and the proceeds of property sold, their respective interests as provided in Section 11.6(d) below with respect to all property appraised under Section 11.6(d) below, and liens on the Units shift accordingly. While the tenancy in common exists, each Owner and the Owner's successors in interest have an exclusive right to occupancy of the portion of the real estate that formerly constituted such Unit.

(d) **Interests of the Owners:** The respective interests of the Owners are as follows:

(i) Except as provided in Subection (ii) below, the respective interests of Owners are the combined fair market values of their Units, allocated interests, and Exclusive Common Areas, immediately before the termination, as determined by one or more independent appraisers selected by the Association. The decision of the independent appraisers shall be distributed to the Owners and becomes final unless disapproved within thirty (30) days after distribution by Owners of Units to which 33% of the votes in the Association are allocated. The proportion of any Owner's interest to that of all Owners is determined by dividing the fair market value of that Owner's Unit and its allocated interests by the total fair market values of all the Units and their allocated interests.

(ii) If any Unit or any Exclusive Common Areas is destroyed to the extent that an appraisal of the fair market value thereof prior to destruction cannot be made, the interests of all Unit Owners are their respective Common Area interests immediately before the termination.

11.7 Condemnation

(a) **Consequences of Condemnation:** If, at any time or times during the continuance of a Condominium Neighborhood pursuant to this Supplemental Declaration, all or any part of the Condominium Neighborhood shall be taken or condemned by any public authority or sold or otherwise disposed of in lieu or in avoidance of condemnation, then all compensation, damages, or other proceeds of condemnation, the sum of which is referred to as the "condemnation award" below, shall be payable to the Association, and the provisions of this Section 11.7 shall apply.

(b) **Complete Taking:** In the event that an entire Condominium Neighborhood is taken or condemned or sold or otherwise disposed of in lieu or in avoidance of condemnation, the condominium ownership for that Neighborhood pursuant to this Supplemental Declaration shall terminate. The condemnation award shall be paid to the Association for the use and benefit of the Owners and the Mortgagees as their interests may appear. Such award shall be apportioned among the Owners and the

Mortgagees on the basis of the undivided interest in the Exclusive Common Areas appurtenant to the Unit in which such Owners and Mortgagees have an interest; provided, however, that if a standard different from the value of the Condominium Neighborhood as a whole is employed to measure the condemnation award in the negotiation, judicial decree, or otherwise, then in determining such apportionment the same standard shall be employed. The Association shall, as soon as practical, determine the share of the condemnation award to which each Owner and Mortgagee is entitled in accordance with each Owner's allocated interest in the Exclusive Common Areas, and such shares shall be paid first to the Mortgagees and then to the Owners, as their interests appear.

(c) **Partial Taking:** Except as the Owners may otherwise agree pursuant to Section 11.6 above, in the event that less than the entire Condominium Neighborhood is taken or condemned or sold or otherwise disposed of in lieu or in avoidance of condemnation, the condominium ownership under this Supplemental Declaration shall not terminate. Each Owner (and Mortgagee holding an interest in such Owner's Unit) shall be entitled to a share of the condemnation award to be determined under the following provisions. The condemnation award shall be paid to the Association for the use and benefit of the Owners and the Mortgagees as their interests may appear. As soon as practical, the Association shall reasonably and in good faith allocate the condemnation award between compensation, damages, or other proceeds, and shall apportion the amounts so allocated among the Owners, as follows:

(i) Subject to Subsection (iii) below, the total amount allocated to a taking of or injury to the Exclusive Common Areas shall be apportioned among Owners and their Mortgagees on the basis of each Owner's undivided interest in the Exclusive Common Areas; and,

(ii) The total amount allocated to severance damages shall be apportioned to the Owners and Mortgagees of those Condominium Units which were not taken or condemned; and,

(iii) The respective amounts allocated to the taking of or injury to a particular Condominium Unit or to improvements an Owner has made within the Owner's own Condominium Unit (including compensation to the Owner for the Unit and its allocated interest in the Common Areas whether or not the Common Areas are acquired) shall be apportioned to the Owner and Mortgagees of that particular Condominium Unit involved; and,

(iv) The total amount allocated to consequential damages and any other takings or injuries shall be apportioned as the Association determines to be equitable under the circumstances. If an allocation of the condemnation award is already established in negotiation, judicial decree, or otherwise, then in allocating the condemnation award the Association shall employ such allocation. Distribution of apportioned proceeds shall be made by checks payable jointly to the respective Owners and their respective Mortgagees.

(d) **Reorganization:** In the event a partial taking results in the taking of a Unit, the Owners thereof shall automatically cease to be members of the Association, and their ownership interests in the Exclusive Common Areas shall terminate and vest in the Owners of the remaining Condominium Units in the Neighborhood. Thereafter, the Association shall reallocate the ownership, voting rights, and Assessment ratios determined in accordance with this Supplemental Declaration, according to the same principles employed in this Supplemental Declaration at its inception and the Board of the Association shall amend this Supplemental Declaration accordingly.

(e) **Repair and Reconstruction:** Any repair and reconstruction necessitated by condemnation shall be governed by the procedures contained in Section 11.6 above.

(f) **Notice of Condemnation:** In the event that any portion of a Condominium Neighborhood shall be made the subject matter of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority, then timely written notice of such condemnation shall be given by the Association to each Owner and First Mortgagee.

ARTICLE 12. Declarant's Development Rights, Special Rights and Reservations

12.1 Declarant's Rights and Reservations: In addition to those easements and rights reserved by Declarant in Article 9 above, and as otherwise provided in this Declaration, Declarant shall have, retain and reserve certain rights as hereinafter set forth with respect to the Association and Aspen Ridge Phase III. The rights and reservations reserved above and hereinafter set forth shall be deemed accepted and reserved in each conveyance of any Unit or other property within Aspen Ridge Phase III by Declarant, whether or not specifically stated therein, and

in each deed or other instrument by which any property within Aspen Ridge Phase III is conveyed by Declarant. The rights, reservations and easements reserved above and hereinafter set forth shall be prior and superior to any other provisions of the Association Documents and may not, without Declarant's written consent, be modified, amended or rescinded or affected by any amendment of the Association Documents. Declarant's consent to any one such amendment shall not be construed as a consent to any other amendment.

12.2 Declarant's Future Development Rights: Declarant, and Declarant's assigns, shall have the following development rights, which rights shall not require the consent of Owners before Declarant's exercise of such rights:

(a) Declarant may further develop Aspen Ridge Phase III; and, may further divide any Unit or adjust lot lines between Units prior to sale of such Unit(s), subject to approval from the City.

(b) Until the Conversion Date, the Declarant may designate and transfer ownership of sites within Aspen Ridge Phase III for fire, police, utility facilities, public parks, and other public facilities. The sites may include Common Area Spaces.

(c) Until the Conversion Date, Declarant, or Declarant's designee or permittee shall have the right to store construction materials and maintain construction offices within Common Areas; and, shall have the right to locate and operate sales offices within Common Areas, and on unsold properties.

(d) Until the Conversion Date, Declarant or Declarant's designee shall have the right to install utilities and utility related equipment and fixtures within any utility easement, street, street right of way, or Common Area, and to grant easements for the maintenance and repair of the same.

12.3 Successor Declarant: For purposes of the rights, reservations and easements reserved and created in favor of Declarant herein, Declarant shall have the option of notifying the Association in writing of an assignee or successor who will hold and exercise Declarant's aforesaid rights and whom the Association shall notify as required by this Declaration, the successor or assignee must own at least one Unit in Aspen Ridge Phase III. The special rights and obligations of the Declarant set forth in this Declaration or the Bylaws may be transferred to other Persons in whole or in part, provided that the transfer shall not reduce an obligation nor enlarge a right beyond that contained in this Declaration or the Bylaws. Absent such transfer, Mountain West Developers, Inc. shall retain the Declarant rights described herein until the Conversion Date.

In the event that Mountain West Developers, Inc. is dissolved prior to the Conversion Date, and fails to notify the Association of a successor for these purposes, then the person(s) holding a majority interest in Mountain West Developers, Inc. at the time of its dissolution shall be deemed the successor to Declarant for these purposes.

12.4 Exemption of Declarant: Nothing contained herein shall limit the right of Declarant to excavate, grade and construct improvements to and on any portion of Aspen Ridge Phase III owned by Declarant, in furtherance of the terms of any applicable Permits. Declarant need not seek or obtain Board or ACC approval of any such improvements constructed or placed by Declarant on any portion of Aspen Ridge Phase III owned by Declarant or an affiliate of Declarant. The rights of Declarant hereunder may be assigned by Declarant to any successor in interest in connection with Declarant's interest in any portion of Aspen Ridge Phase III by an express written assignment.

12.5 Exclusive Rights to Use Name of Development: No person shall use the name "Aspen Ridge Phase III" or any derivative of such name or in logo or depiction in any printed or promotional material without Declarant's prior written consent. However, Owners may use the name "Aspen Ridge Phase III" in printed or promotional matter where such term is used solely to specify that the particular property is located within Aspen Ridge Phase III and the Association shall be entitled to use the words "Aspen Ridge Phase III" in its name.

12.6 Declarant's Approval: None of the rights, reservations, or easements granted to or reserved by Declarant herein may ever be modified or amended without the prior written consent of Declarant or Declarant's successor, which consent may be withheld by Declarant for any reason whatsoever. Additionally, until the Conversion Date, the Association shall not, without first obtaining the prior written consent of the Declarant, which consent shall not be unreasonably withheld: make any amendment or repeal of any other provision of this Declaration (i.e. a provision not involving any of the rights, reservations or easements granted to or reserved by Declarant); make any amendment to any other Association Documents; make any amendment to the Design Guidelines; make any new declaration or guidelines or similar instrument; or promulgate, change or repeal any rules of the Association. Any attempt to do so without such consent shall result in such instrument being void and of no

force and effect unless subsequently approved in writing by the Declarant. Declarant may extinguish any of the aforesaid rights by giving written notice thereof to the Association.

ARTICLE 13. Streets

13.1 **Private Streets, Maintenance and Ownership:** All streets, roads and drives within Aspen Ridge Phase III shall be private unless dedicated to the City or other governmental entity, in whole or in part, by a written declaration by Declarant or the Association and accepted by the City or other governmental entity. Neither the City of McCall nor any other governmental entity shall have responsibility for the maintenance, repair or upkeep of any of such streets unless, and to the extent, such responsibility is accepted in writing in whole or in part by the City of McCall or other governmental entity. Declarant shall complete the construction of such streets to the standards depicted in the documents submitted to and approved by the City of McCall. The said streets shall be transferred by Declarant to the Association after completion. Thereafter, the Association shall be solely responsible for the maintenance, repair and upkeep of such streets, which shall be part of its Property Maintenance Function. All such streets shall be dedicated to the use of the Association, the Owners, their guests and invitees. Declarant shall reserve rights in such streets, as part of the conveyance, and as necessary to implement the development of Aspen Ridge Phase III, and as are provided for hereinabove. Gates are not permitted to block the vehicular or pedestrian access of any public or private street.

13.2 **Access for Emergency Services and Maintenance Requirements:** The police, fire, ambulance and other emergency services shall have full access to private streets depicted on the Final Plat exactly as if they were public streets. The Association shall maintain a full twenty foot (20') width free of accumulations of snow and free of parked vehicles; and in the event of the failure of the Association to comply timely such requirement, the City of McCall may clear snow and tow parked vehicles either with its own crews and equipment, or with specially hired crews and equipment and charge the Association for the cost thereof.

ARTICLE 14. Sewer and Water

Aspen Ridge Phase III will be serviced by the City of McCall central water and sewer systems for both water and sewer facilities. Owners will be obligated to connect to such systems, pursuant to the rules and regulations of the City of McCall.

ARTICLE 15. Certain Rights of Declarant and Owners

15.1 **Reserved Rights with Respect to Property Furnished by Declarant:** Whether or not expressed at the time, all Property Furnished by Declarant shall be deemed accepted by the Association and shall at all times remain subject to: existing or future easements for utilities, including gas, electricity, water, sewer, telephone, television or other utility services, and for intercommunication, alarm or other similar systems; existing easements for parking purposes; existing easements for ingress, egress and access for the benefit of other property in the vicinity of Aspen Ridge Phase III, and easements as provided in Section 15.3.

15.2 **No Sale or Abandonment of Property Furnished by Declarant:** No Property Furnished by Declarant may be sold, conveyed, encumbered, leased, transferred, abandoned or otherwise disposed of without the prior written consent of Declarant. No improvements which may be included in Property Furnished by Declarant may be destroyed, permitted to deteriorate or waste, or disposed of by the Association without the prior written consent of Declarant until the Conversion Date.

15.3 **Easements of Owners with Respect to Association Facilities:** Each Owner and Guest shall have a non-exclusive easement over, upon, across and with respect to any Association Facilities as appropriate and necessary for: access, ingress and egress to the Unit of such Owner or Guest; encroachment by improvements caused by the settling, rising or shifting of earth; and horizontal and lateral support of improvements; subject, however, in the case of easements for access, ingress and egress, to such reasonable and uniformly applied rules and regulations as the Association may impose to assure reasonable use and enjoyment of Association Facilities by all persons entitled to such use and enjoyment.

15.4 **Owner's Enjoyment of Functions and Association Facilities:** Each Owner and Guest shall be entitled to use and enjoy any Association Facilities suitable for general use or the services provided by any Functions, subject to such reasonable rules and regulations which the Association may adopt.

15.5 **Owner's Rights and Obligations Appurtenant:** All rights, easements and obligations of an Owner under this Declaration and all rights of an Owner with respect to membership in the Association under this Declaration are hereby declared to be and shall be appurtenant to the title to the Unit owned by such Owner and may

not be transferred, conveyed, devised, bequeathed, encumbered or otherwise disposed of separate or apart from fee simple title to such Owner's Unit. Every transfer, conveyance, grant, devise, bequest, encumbrance or other disposition of a Unit shall be deemed to constitute a conveyance, grant, devise, bequest, encumbrance or transfer or disposition of such rights and obligations.

ARTICLE 16. Dispute Resolution and Limitation on Litigation

16.1 Agreement to Encourage Resolution of Disputes Without Litigation.

(a) Declarant, the Association and its officers, directors, all Classes of Members, and any Person not otherwise subject to this Declaration who agrees to submit to this Article (collectively, "Bound Parties"), agree that it is in the best interest of all concerned to encourage the amicable resolution of disputes involving Aspen Ridge Phase III without the emotional and financial costs of litigation. Accordingly, each Bound Party agrees not to file suit in any court with respect to a Claim described in subsection (b) unless and until it has first submitted such Claim to the alternative dispute resolution procedures set forth in Section 16.2 in a good faith effort to resolve such Claim.

(b) As used in this Article, the term "Claim" shall refer to any claim, tort claim, grievance or dispute arising out of or relating to:

- (i) the interpretation, application or enforcement of the Association Documents;
- (ii) the rights, obligations, and duties of any Bound Party under the Association Documents; or,
- (iii) the decisions of the ACC;

(c) The following shall not be considered "Claims" unless all parties to the matter otherwise agree to submit the matter to the procedures set forth in Section 16.2:

- (i) any suit by the Association to collect Assessments or other amounts due from any Owner;
- (ii) any suit by the Association to obtain a temporary restraining order and such ancillary relief as the court may deem necessary in order to maintain the status quo and preserve the Association's ability to enforce the provisions of Design Guidelines, or any of the Association Documents;
- (iii) any suit between Owners, which does not include Declarant or the Association as a party, if such suit asserts a Claim which would constitute a cause of action independent of the Association Documents;
- (iv) any suit in which any indispensable party is not a Bound Party;
- (v) any suit as to which any applicable statute of limitations would expire within 180 days of giving the Notice required by Section 16.2(a), unless the party or parties against whom the Claim is made agree to toll the statute of limitations as to such Claim for such period as may reasonably be necessary to comply with this Article; and,
- (vi) any suit by the Association to enjoin a continuing violation of or to enforce the provisions of the Design Guidelines or any other Association Document.

16.2 Dispute Resolution Procedures:

(a) Notice. The Bound Party asserting a Claim ("Claimant") against another Bound Party ("Respondent") shall give written notice to each Respondent and to the Board stating plainly and concisely:

- (i) the nature of the Claim, including the person involved and the Respondent's role in the Claim;
- (ii) the legal basis of the Claim (i.e. the specific authority out of which the Claim arises);
- (iii) the Claimant's proposed resolution or remedy; and,

(iv) the Claimant's desire to meet with the Respondent to discuss in good faith ways to resolve the Claim.

(b) **Negotiation.** The Claimant and Respondent shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation. If requested in writing, accompanied by a copy of the Notice, the Board may appoint a representative to assist the parties in negotiating a resolution of the Claim.

(c) **Mediation.** If the parties have not resolved the Claim through negotiation within 30 days after the date of the Notice (or within such other time period as the parties may mutually agree upon), the Claimant shall have 45 additional days to submit the Claim to mediation with an entity designated by the Association (if the Association is not a party to the Claim) or to a mutually acceptable individual providing dispute resolution services in Idaho.

If the Claimant does not submit the Claim to mediation within such time, or does not appear for the mediation when scheduled, the Claimant shall be deemed to have waived the Claim, and the Respondent shall be relieved of any and all liability to the Claimant (but not third parties) on account of such Claim.

If the Parties do not settle the Claim in mediation, the mediator shall issue a notice of termination of the mediation proceedings indicating that the parties are at an impasse and the date that mediation was terminated. The Claimant shall thereafter be entitled to file suit.

Each party shall bear its own costs of the mediation, including attorney's fees, and each Party shall share equally all fees charged by the mediator.

(d) **Settlement.** Any settlement of the Claim through negotiation or mediation shall be documented in writing and signed by the parties. If any party thereafter fails to abide by the terms of such agreement, the other party may file suit or initiate administrative proceedings to enforce such agreement without the need to again comply with the procedures set for this in this Section. In such event the party taking action to enforce the agreement or award shall, upon prevailing, be entitled to recover for the non-complying party (or if more than one non-complying party, from all such parties) all costs incurred in enforcing such agreement or award, including, without limitation, attorneys' fees and court costs.

ARTICLE 17. Miscellaneous

17.1 Duration of Declaration: This Declaration shall run with and bind all property within Aspen Ridge Phase III, and shall inure to the benefit of and shall be enforceable by the Association or any Owner, their respective legal representatives, heirs, successors, and assigns, for a term of 50 years from the date this Declaration is recorded. After such time, this Declaration shall be automatically extended for successive periods of 10 years, unless an instrument in writing, signed by the Declarant and the Association, upon the affirmative vote of said Class B Member, and 90% of the Class A Members, is recorded, agreeing to terminate this Declaration, in which case this Declaration shall be terminated as specified therein. Declarant's vote and signature are not required, however, after the Conversion Date.

17.2 Amendment:

(a) **By the Board:** Except as limited or committed to action by the members, either by the Articles, the Bylaws, or this Declaration, the Board shall have the power to amend the Declaration at any regular meeting of the Board or at any special meeting called for that purpose at which a quorum is represented. However, if the members shall amend any portion of the Declaration, the directors shall not thereafter amend the same in such manner as to defeat or impair the object of the members in taking such action. Any amendment to the Declaration approved by the Board shall have no material adverse effect upon any right of any Owner or member.

(b) **By Owners:** This Declaration may also be amended upon the Affirmative Vote of the Majority, by the recording of a written instrument or instruments specifying the amendment or the repeal.

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

(c) **Validity and Effective Date of Amendments:** Amendments to this Declaration shall become effective upon recordation in the land records of Valley County, Idaho, unless a later effective date

is specified therein. Any procedural challenge to an amendment must be made within six months of its recordation or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of this Declaration.

If an Owner consents to any amendment to any of the Association Documents, it will be conclusively presumed that such Owner has the authority so to consent, and no contrary provision in any Mortgage or contract between the Owner and a third party will affect the validity of such amendment. No amendment shall be contrary to the terms or conditions of any valid city, county, state, or federal permit applicable to Aspen Ridge Phase III; nor, shall any Amendment divest any Owner of any material and substantial vested property rights.

No amendment may remove, revoke, or modify any right or privilege of the Declarant without the written consent of the Declarant or the assignee of such right or privilege.

17.3 Effect of Provisions of Declaration: Each provision of this Declaration and the Bylaws, and an agreement, promise, covenant and undertaking to comply with each provision of this Declaration and the Bylaws, and any necessary exception or reservation or grant of title, estate, right or interest to effectuate any provision of this Declaration and the Bylaws: (a) shall be deemed incorporated in each deed or other instrument by which any right, title or interest in any real property within Aspen Ridge Phase III is granted, devised or conveyed, whether or not set forth or referred to in such deed or other instrument; (b) shall, by virtue of acceptance of any right, title or interest in any real property within Aspen Ridge Phase III by an Owner or the Association, be deemed accepted, ratified, adopted and declared as a personal covenant of such Owner or the Association, as the case may be, (c) shall, as a personal covenant, be binding on such Owner or the Association and such Owner's or the Association's respective heirs, personal representatives, successors and assigns; (d) shall, as a personal covenant of an Owner, be deemed a personal covenant to, with and for the benefit of Declarant and to, with and for the benefit of the Association but not to, with or for the benefit of any other Owner; shall, if a personal covenant of the Association, be deemed a personal covenant to, with and for the benefit of Declarant and to, with and for the benefit of each Owner; (f) shall be deemed a real covenant by Declarant, for itself, its successors and assigns, and also an equitable servitude, running, in each case, as a burden with and upon the title to each parcel of real property within Aspen Ridge Phase III; (g) shall, as a real covenant and also as an equitable servitude, be deemed a covenant and servitude for the benefit of any real property now or hereafter owned by Declarant within Aspen Ridge Phase III and for the benefit of any and all other real property within Aspen Ridge Phase III; and (h) shall be deemed a covenant, obligation and restriction secured by a lien, binding, burdening and encumbering the title to each parcel of real property within Aspen Ridge Phase III which lien with respect to any Unit shall be deemed a lien in favor of Declarant and the Association, jointly and severally, and, with respect to any real property owned by the Association, shall be deemed a lien in favor of Declarant.

17.4 Enforcement and Remedies:

(a) **In General:** Each provision of this Declaration with respect to the Association or property of the Association shall be enforceable by Declarant, or by any Owner who has made written demand on the Association to enforce such provision and 30 days have lapsed without appropriate action having been taken, by a proceeding for a prohibitive or mandatory injunction. In addition to any other remedy available at law or in any of the Association Documents, each provision of this Declaration with respect to an Owner or property of an Owner shall be enforceable by Declarant or the Association by a proceeding for a prohibitive or mandatory injunction and/or by a suit or action to recover damages, and/or, in the discretion of the Association, for so long as any Owner fails to comply with any such provisions, by exclusion of such Owner and such Owner's Guests from use of any Facility and from enjoyment of any Function. If court proceedings are instituted in connection with the rights of enforcement and remedies provided in this Declaration, the prevailing party shall be entitled to recover its costs and expenses in connection therewith, including reasonable attorneys' fees and injunction bond premiums.

(b) **Fines:** In addition to the provisions of Section 17.4(a), the Board shall be entitled to impose fines and penalties for violations of this Declaration in amounts to be provided in the Design Guidelines and/or Rules and Regulations. Fines and penalties may be assessed only against a Member of the Association, and only if the violator is the Member or a member of the Member's family or a guest, invitee, lessee, contractor, subcontractor, employee or agent of the Member. Fines and penalties may be increased in the case of a continuing violation, where the Member has failed to abate the violation within the time allowed therefore by the Board in written notice to the Member. In the case of a single incident, the fine or penalty may not be assessed unless the Member has received at least one prior written notice

from the Board that the violation may subject the Member to fine(s). Fines and penalties imposed pursuant to this Section may be collected as an assessment as provided in the Bylaws and this Declaration. Non-payment of assessments shall not subject a Member to fines; rather, the remedy therefore shall be as provided in the Bylaws and as may otherwise be provided in this Declaration.

17.5 Protection of Encumbrancer: No violation or breach of, or failure to comply with, any provision of this Declaration and no action to enforce any such provision shall affect, defeat, render invalid or impair the lien of any mortgage, deed of trust or other lien on any property taken in good faith and for value and perfected by recording in the office of the Recorder of Valley County, Idaho, prior to the time of recording in said office of an instrument describing such property and listing the name or names of the Owner or Owners of fee simple title to the property and giving notice of such violation, breach or failure to comply, nor shall such violation, breach, failure to comply or action to enforce affect, defeat, render invalid or impair the title or interest of the holder of any such mortgage, deed of trust, or other lien or title or interest acquired by any purchaser upon foreclosure of any such mortgage, deed of trust or other lien or result in any liability, personal or otherwise, of any such holder or purchaser. Any such purchaser upon foreclosure shall, however, take subject to this Declaration with the exception that violations or breaches of, or failures to comply with, any provisions of this Declaration which occurred prior to the vesting of fee simple title in such purchaser shall not be deemed breaches or violations hereof or failures to comply herewith with respect to such purchaser, his heirs, personal representatives, successors or assigns.

17.6 Perpetuities: The covenants, conditions, restrictions, and other provisions of this Declaration and any other Association Document shall continue in full force and effect until the death of the last survivor of the now living grandchildren of Robert F. Kennedy, the former Attorney General of the United States of America, plus twenty-one years, unless this Declaration is sooner terminated pursuant to Section 17.1 above.

17.7 Limited Liability: Neither Declarant, the Association, the ACC, the Board nor any member, agent or employee of any of the same shall be liable to any party for any action or for any failure to act with respect to any matter if the action taken or failure to act was in good faith and without malice.

17.8 Use of Trademark: Each Owner by acceptance of a deed for his Unit, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to acknowledge that "Aspen Ridge Phase III" is a service mark and trademark of Mountain West Developers, Inc. or its licensees and to covenant that he shall not use the term "Aspen Ridge Phase III" without the prior written permission of the Declarant or its licensees.

17.9 Successors and Assigns: Except as otherwise provided herein, this Declaration shall be binding upon and shall inure to the benefit of Declarant, the Association, and each Owner and their respective heirs, personal representatives, successors and assigns.

17.10 Severability: Invalidity or unenforceability of any provision of this Declaration in whole or in part shall not affect the validity or enforceability of any other provision or any valid and enforceable part of a provision of this Declaration.

17.11 Captions: The captions and headings in this instrument are for convenience only and shall not be considered in construing any provisions of this Declaration.

17.12 Construction: When necessary for proper construction, the masculine of any word used in this Declaration shall include the feminine or neuter gender, and the singular the plural, and vice versa.

17.13 No Waiver: Failure to enforce any provisions of the Association Documents shall not operate as a waiver of any such provision or of any other provision of the Association Documents.

17.14 Notice of Sale or Transfer of Title: Any Owner desiring to sell or otherwise transfer title to his or her Unit shall give the Association at least seven days' prior written notice of the name and address of the purchaser or transferee, the date of such transfer of title, and such other information as the Association may reasonably require.

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

MOUNTAIN WEST DEVELOPERS, INC.,
An Idaho corporation

By: _____


Daniel C. Fulkerson, President

STATE OF IDAHO,)
) ss.
County of Valley.)

On this 24 day of JANUARY, 2007, before me, AMY PEMBERTON, a Notary Public in and for said State, personally appeared **Daniel C. Fulkerson**, known or identified to me to be the President of **Mountain West Developers, Inc.**, the corporation that executed the instrument or the person who executed the 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.

Amy Pemberton
NOTARY PUBLIC FOR IDAHO
Residing at: WTAU, ID
My Commission Expires: 5/4/2009

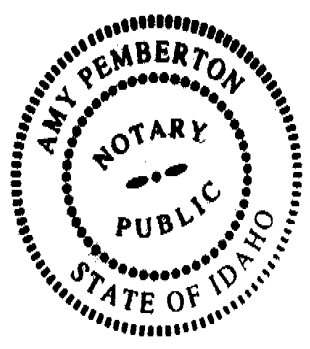


EXHIBIT A

THOMAS W. KERR
PLS 998

KERR SURVEYING
PO Box 853 404 E. Park
McCall, ID 83638
208-634-2686 / Fax 208-634-4042

ROD M. SKIFTUN
PLS 9585

JANUARY 21, 2005

ASPEN RIDGE
Phase III
25.868 Acres
City of McCall, Valley County, Idaho

A parcel situate in the NE 1/4 of Section 10, T. 18 N., R. 3 E., B.M., in the City of McCall, Valley County, Idaho, more particularly described as follows:

Commencing at a brass cap marking the corner common to Sections 2, 3, 10, and 11, T. 18 N., R. 3 E., B.M., City of McCall, Valley County, Idaho, the **REAL POINT OF BEGINNING**:

Thence, S. 0°04'46" W., 391.62 feet along the line common to Sections 10 and 11, to a 5/8" rebar marking the northeast corner of Lot 127, Aspen Ridge Subdivision, Phase I, as recorded in Book 9, on Page 45 of Plats, as Instrument No. 279772, in the Office of the Recorder of Valley County, Idaho,

thence, S. 52°10'13" W., 459.25 feet along the northerly boundary of said Lot 127 to a 5/8" rebar on the northerly right-of-way of Aspen Ridge Lane,

thence, S. 69°02'15" W., 650.98 feet along said northerly right-of-way to a 5/8" rebar,

thence, 419.53 feet along said northerly right-of-way on a curve to the left, whose delta angle is 24°02'15", radius is 1,000.00 feet, and whose long chord bears S. 57°01'07" W., 416.46 feet, to a 5/8" rebar,

thence, 152.03 feet along said northerly right-of-way on a curve to the right, whose delta angle is 87°06'25", radius is 100.00 feet, and whose long chord bears S. 88°33'12" W., 137.81 feet to a 5/8" rebar,

thence, N. 47°53'35" W., 42.67 feet along said northerly right-of-way to a 5/8" rebar,

thence, 37.42 feet along said northerly right-of-way on curve to the right, whose delta angle is 85°46'10", radius is 25.00 feet, and whose long chord bears N. 04°55'38" W., 34.03 feet to a 5/8" rebar, on the easterly right-of-way of Spring Mountain Boulevard,

thence, 840.20 feet along said easterly right-of-way on a non-tangent curve to the left, whose delta angle is 65°56'41", radius is 730.00 feet, and whose long chord bears N. 04°59'06" E., 794.58 feet,

thence, 223.76 feet along said easterly right-of-way on curve to the right, whose delta angle is 17°48'23", radius is 720.00 feet, and whose long chord bears N. 19°05'03" W., 222.86 feet,

thence, 75.01 feet along said easterly right-of-way on curve to the left, whose delta angle is 05°10'40", radius is 830.00 feet, and whose long chord bears N. 12°46'12" W., 74.98 feet, to the line common to said Sections 3 and 10, as shown on that particular Record of Survey as recorded in Book 8 on Page 4. as Instrument No. 278934 in the Office of the Recorder of Valley County, Idaho,

thence, S. 89°56'39" E., 1513.25 feet along said common line to the Point of Beginning, containing 25.868 acres.

Bearings based on plat of Aspen Ridge Subdivision No. 1, Instrument No. 279772.

FIRST AMENDMENT TO
SUPPLEMENTAL DECLARATION
TO THE ASPEN RIDGE MASTER DECLARATION
FOR
ASPEN RIDGE PHASE III

THIS FIRST AMENDMENT is made as of the 9th day of May, 2007, to that certain Supplemental Declaration To The Aspen Ridge Master Declaration For Aspen Ridge Phase III, which was recorded with the Valley County, Idaho Recorder on January 12, 2007 as Instrument No. 317489 (hereafter the "Supplemental Declaration").

The purpose of the following amendment is to correct an instrument number referred to in the Supplemental Declaration, and to clarify the location of Garage Units for the Woodpecker Flat Condominium Neighborhood.

The Supplemental Declaration is amended as follows:

1. Section 1.1(a) of the Supplemental Declaration shall be modified as follows: the first sentence shall be deleted in its entirety and replaced with the following:

"This Declaration is a supplement to that certain Master Declaration of Covenants, Conditions and Restrictions for Aspen Ridge ("Master Declaration"), recorded with the Valley County, Idaho Recorder as Instrument Number 279774 and re-recorded as Instrument Number 289339."

2. Section 2.29(e) of the Supplemental Declaration, with regard to Neighborhood Designations, and Section 2.36(c)(iii) of the Supplemental Declaration, with regard to the definition of the Woodpecker Flat Condominium Units, both refer to Units 63 – 72 together with Garage Units G63 – G72, for a total of 10 Woodpecker Flat Condominium Units. The Garage Units for Units 63 – 72 are depicted at Sheet 11 of the Plat directly across a breezeway and adjacent to the condominium Unit to which is it assigned, but the Garage Unit numbers are not included. For purposes of referring to all Garage Units in the Woodpecker Flat Condominium Neighborhood, the Garage Unit associated with each Unit shall hereby be defined as the Garage Unit depicted at Sheet 11 of the Plat directly across the breezeway from the Unit itself.

3. Except as modified herein, the terms and conditions set forth in the Supplemental Declaration shall remain in full force and effect.

The aforesaid First Amendment to the Supplemental Declaration was approved by the Board of Directors for Aspen Ridge Phase III Association, Inc., by vote taken on May 9, 2007.

IN WITNESS WHEREOF, the Supplemental Declaration is hereby amended as aforesaid, effective the date and year first above written.

MOUNTAIN WEST DEVELOPERS, INC.,
An Idaho corporation

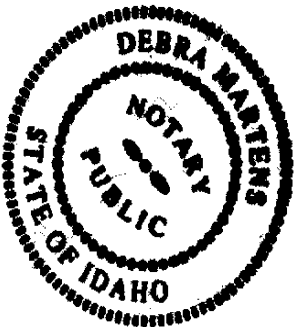
By: [Signature]
Daniel C. Fulkerson, President

STATE OF IDAHO,)
) ss.
County of Valley.)

On this 9th day of May, 2007, before me, Debra Martens Notary Public in and for said State, personally appeared **Daniel C. Fulkerson**, known or identified to me to be the President of **Mountain West Developers, Inc.**, the corporation that executed the instrument or the person who executed the 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
My Commission Expires: 6/1/2008



Instrument # 361636

VALLEY COUNTY, CASCADE, IDAHO

7-21-2011 01:14:21 No. of Pages: 37

Recorded for : CITY OF MCCALL

ARCHIE N. BANBURY

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Ex-Officio Recorder Deputy

Index to: RESTRICTIVE COVENANT

**SECOND AMENDED AND RESTATED
SUPPLEMENTAL DECLARATION
TO THE
ASPEN RIDGE MASTER DECLARATION
FOR
ASPEN RIDGE PHASE III**

SECOND AMENDED AND RESTATED
SUPPLEMENTAL DECLARATION
TO THE ASPEN RIDGE MASTER DECLARATION
FOR
ASPEN RIDGE PHASE III

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SECOND AMENDED AND RESTATED
SUPPLEMENTAL DECLARATION
TO THE ASPEN RIDGE MASTER DECLARATION
FOR
ASPEN RIDGE PHASE III

This Second Amended and Restated Supplemental Declaration ("this Declaration") is made this 27 day of June, 2011, by Aspen Ridge Phase III Association, Inc., an Idaho nonprofit corporation, and by Mountain West Developers, Inc., an Idaho corporation. This Second Amended and Restated Supplemental Declaration shall amend, replace and supersede the following: (1) Supplemental Declaration To The Aspen Ridge Master Declaration For Aspen Ridge Phase III, which was recorded with the Valley County, Idaho Recorder on January 12, 2007 as Instrument No. 317489; and (2) First Amendment To Supplemental Declaration To The Aspen Ridge Master Declaration For Aspen Ridge Phase III, which was recorded with the Valley County, Idaho Recorder on May 11, 2007 as Instrument No. 321273.

ARTICLE 1. Declaration / Purposes

1.1 General Purposes

(a) This Declaration is a supplement to that certain Master Declaration of Covenants, Conditions and Restrictions for Aspen Ridge ("Master Declaration"), recorded with the Valley County, Idaho Recorder as Instrument Number 279774 and re-recorded as Instrument Number 289339. This Declaration subjects the real property legally described at **Exhibit A**, referred to hereafter as Aspen Ridge Phase III, to the Master Declaration, as the terms of the Master Declaration may be modified by this Supplemental Declaration.

(b) The Declarant, owns the real property described at **Exhibit A** and called Aspen Ridge Phase III, and intends to develop said property as a residential community within the Aspen Ridge Planned Unit Development.

(c) Aspen Ridge Phase III Association, an Idaho nonprofit corporation, has been formed, to perform certain functions and to hold and manage certain property for the common benefit of some or all Owners. This Declaration defines certain rights and obligations of Owners within Aspen Ridge Phase III with respect to the Association and with respect to Functions undertaken and Association Facilities held by the Association.

(d) By this Declaration, Declarant also intends to establish a means to provide for and maintain the area within Aspen Ridge Phase III as a pleasant and desirable environment for all persons residing therein.

1.2 Declaration: To further the general purposes herein expressed, the Declarant, for itself, its successors and assigns, hereby declares that all real property defined herein as Aspen Ridge Phase III is hereby made a part of the Property as that term is defined in the Master Declaration, and shall at all times be owned, held, used and occupied subject to the provisions of the Master Declaration and this Declaration and to the covenants, conditions and restrictions herein contained. In the event of any conflict between this Declaration and the Master Declaration, this Declaration shall control; and, specifically, the terms of the Phase III Design Guidelines shall control to the exclusion of the design guidelines described at XI (Architectural Control Committee) of the Master Declaration. Declarant, for each Unit it owns, and each Owner, by acceptance of a deed or other conveyance of title to a Unit, HEREBY COVENANTS, PROMISES, AND AGREES to be bound by and to comply in all respects with all provisions of the Master Declaration as modified by this Declaration, and all applicable Supplemental Declarations, the Articles and Bylaws of the Association, all applicable sub-association articles and bylaws, the Design Guidelines, and all Rules and Regulations promulgated pursuant to any of the above.

ARTICLE 2. Certain Definitions

2.1 Affirmative Vote of the Majority: The Affirmative Vote of the Majority shall be achieved on any particular matter if (and only if) (a) the Class B Member votes in favor of such matter; and, (b) at least 51% of the votes of the Class A Members are cast in favor of such matter. For the purpose of determining the vote of a class, the votes of a majority of the members of such class present at a meeting at which a quorum is established, in person or by proxy and entitled to vote on such matter, shall be deemed the vote of such class. Notwithstanding the foregoing, in the event that there is no Class B member, the favorable vote of such member shall not be considered

in determining a majority. Notwithstanding any other provision to the contrary in the Association Documents, this definition may not be amended without an Affirmative Vote of the Majority as defined herein.

2.2 Articles: The Articles of Incorporation for Aspen Ridge Phase III, Inc.

2.3 Aspen Ridge Association: Aspen Ridge Homeowners' Association, Inc., an Idaho nonprofit corporation, formed and incorporated to be and constituting the Association to which reference is made in this Declaration and to further the common interests of all Owners within Aspen Ridge Phases I, II and III.

2.4 Aspen Ridge Architectural Committee: The Architectural Control Committee described in the Master Declaration ("ACC").

2.5 Aspen Ridge Homeowners' Association Documents: The various operative documents of the Aspen Ridge Homeowners' Association, including: (a) The Master Declaration; (b) the Articles of Incorporation for Aspen Ridge Homeowners' Association; (c) the Bylaws for Aspen Ridge Homeowners' Association; (d) all amendments and supplements to any of the aforementioned documents; and, (e) all as modified by the Aspen Ridge Phase III Association Documents.

2.6 Aspen Ridge Phase III: All of the real property in Valley County, Idaho, within the boundaries set forth in the legal description attached hereto as **Exhibit A**.

2.7 Association: Aspen Ridge Phase III Association, Inc., an Idaho nonprofit corporation, formed and incorporated to be and constituting the Association to which reference is made in this Declaration and to further the common interests of all Owners or of particular classes of Owners of Units within Aspen Ridge Phase III.

2.8 Association Documents or Aspen Ridge Phase III Association Documents: The various operative documents of the Aspen Ridge Phase III Association, including: (a) this Supplemental Declaration; (b) the Articles of Incorporation for Aspen Ridge Phase III Association; (c) the Bylaws for Aspen Ridge Phase III Association; (d) the Phase III Design Guidelines; (e) all Rules and Regulations promulgated by the Board; (f) any final plat recorded for Aspen Ridge Phase III; and, (g) all amendments and supplements to any of the aforementioned documents.

2.9 Association Facilities: All property owned or leased by the Association or otherwise held or used by the Association, or under the Association's management or control by, through or under contractual arrangements, licenses or other arrangements, including Property Furnished by Declarant, real property or interests therein, improvements on real property, and personal property and equipment.

2.10 Benefited Units: The Board shall have the discretion to designate groups of Units which have like interests or needs, which Units may already be grouped as a Neighborhood, or may be some other grouping of Units with like interests or needs, for the following purposes: determination, assessment and budgeting for Benefited Unit Assessments, as defined at Section 9.2 of the Bylaws; and/or, any other benefit, service or obligation related to certain Units which are not already grouped as a Neighborhood. The Board may make such designation either of their own volition or in their discretion at the request of a Neighborhood Committee or Members.

2.11 Board: The Board of Directors for Aspen Ridge Phase III Association, Inc.

2.12 Building: Any building (including all fixtures and improvements contained within them) located on any of the four Condominium Parcels, and in which the Condominium Units are located.

2.13 Building Improvements: Any material improvement of any of the Property including, but not limited to landscaping, site preparation, paving, fencing, building construction, exterior changes, or interior changes which change the use of interior space to an unauthorized use or which would change the number of Living Units.

2.14 Bungalow Structure: A building which contains one Living Unit.

2.15 Bylaws: The Bylaws for Aspen Ridge Phase III Association, Inc.

2.15A Combined Bungalow Units: Bungalow Units that are combined and converted to a single Bungalow Unit in accordance with Section 15.6.

2.15B Combined Townhome Units: Townhome Units that are combined and converted to a single Bungalow Unit in accordance with Section 15.6.

2.15C Converted Condominium Parcel: A Condominium Parcel for which the Condominium Units have been converted to one or more Bungalow Units in accordance with Section 15.6.

2.16 Common Area: All Common Areas depicted on the Plat and declared to be Common Area in this Declaration, and in which Members of the Aspen Ridge Association enjoy common, non-exclusive rights of use. Common Area is further described at Section 5.1. Exclusive Use Common Area, as described at Section 2.24 below, is specifically not considered "Common Area".

2.17 Condominium Parcels: Parcels A, B, C and D as depicted on the Plat, and upon which Condominium Units will be constructed.

2.18 Conversion Date: That date upon which Declarant no longer owns any Unit in the Property, or such earlier date as is selected by Declarant.

2.19 Cooking Facility: Fixtures and equipment for food storage and preparation of meals, including at least a sink, oven and refrigerator.

2.20 Declarant: Mountain West Developers, Inc., an Idaho corporation, and any party which (a) acquires from Declarant all or substantially all of its property at Aspen Ridge Phase III and (b) is designated by a written instrument as a successor or assignee of Declarant under this Declaration. Such instrument may specify the extent and portion of the rights or interests as a Declarant which are being assigned, in which case Mountain West Developers, Inc. shall retain all other rights as Declarant.

2.21 Declaration: This Declaration and all Amendments or Supplements hereto, hereafter recorded in the real property records of Valley County, Idaho.

2.22 Default Rate: Any delinquent assessment, charge, fine, penalty or other amount payable pursuant to the terms of the Association Documents shall bear interest at the greater of eighteen percent (18%) per annum, or six (6) points above the prime rate of Wells Fargo Bank, NA or any other national banking association with offices in Boise, Idaho.

2.23 Design Guidelines or Phase III Design Guidelines: The Phase III Design Guidelines, as further described in Article 8 herein and as may be amended from time to time. Any reference in the Master Declaration to "Design Guidelines" shall, as they apply to Units in Aspen Ridge Phase III, mean the Phase III Design Guidelines.

2.24 Exclusive Common Area: Exclusive Use Common Area shall be identified as Exclusive Use Common Area in this Declaration, and is reserved for the exclusive use and ownership of the Owners in a Neighborhood. Exclusive Use Common Areas are further defined in Section 5.2, and may also be referred to as "EUCA" or "Exclusive Common Area".

(a) Exclusive Common Areas in General: Each of the four Condominium Neighborhoods shall have Exclusive Common Area which shall include the Parcel depicted on the Plat for each such Neighborhood, as further described at subsection (b) below, as well as all Buildings and improvements located thereon, except the Condominium Units, but including, without limiting the generality of the foregoing, the following components:

(i) All areas of the Parcel located outside of a Building, including but not limited to sidewalks, walkways, paths, grass, shrubbery, trees, driveways, roadways, landscaping, parking areas (except Garage Units), and related facilities; and,

(ii) All portions of a Building not defined herein as a Unit (including, but not by way of limitation, the foundation, columns, girders, beams, supports, perimeter and supporting walls, chimneys, chimney chases, roofs, patios, balconies, entrances and exits, and the mechanical installations of the Building consisting of the equipment and materials making up any central services such as power, light, gas, hot and cold water, sewer, and heating and central air conditioning which exist for use by one or more of the Owners, including the pipes, vents, ducts, flues, cable conduits, wires, telephone wire, and other similar utility installations used in connection therewith); and

(ii) All other apparatus, installations, and equipment in, affixed to or connected to a Building existing for the use of one or more of the Owners.

(b) Ownership Allocations of Exclusive Common Areas : Exclusive Common Areas are allocated among the Condominium Neighborhoods as follows:

(i) **Cattail Point Condominium Neighborhood:** Each Owner in this Neighborhood shall have exclusive use of all Exclusive Common Area located within Parcel B, as depicted on the Plat, and each such Unit shall have a 1/6 undivided ownership interest in such Exclusive Common Area.

(ii) **Woodpecker Flat Condominium Neighborhood:** Each Owner in this Neighborhood shall have exclusive use of all Exclusive Common Area located within Parcel C, as depicted on the Plat, and each such Unit shall have a 1/10 undivided ownership interest in such Exclusive Common Area.

(iii) **Dragonfly Glen Condominium Neighborhood:** Each Owner in this Neighborhood shall have exclusive use of all Exclusive Common Area located within Parcel D, as depicted on the Plat, and each such Unit shall have a 1/13 undivided ownership interest in such Exclusive Common Area.

2.25 Function: Any activity, function or service required under this Declaration to be undertaken or performed by the Association as well as any activity, function or service otherwise undertaken or performed by the Association.

2.26 Guest: Any customer, agent, employee, guest or invitee of an Owner, lessee, and any person or persons, entity or entities who have any right, title or interest in a Unit which is not the fee simple title to the Unit.

2.27 Living Unit: One or more rooms designed for or which may readily be occupied exclusively by one family or group of people living independently from any other family or group of people, and having not more than one Cooking Facility.

2.28 Member: A Person entitled to membership in the Association, as described at Section 3.1 of the Bylaws.

2.29 Neighborhood: A group of Units designated as a separate Neighborhood in this Section. A Neighborhood may act either through a Neighborhood Committee or Council, established in accordance with the Bylaws, or without a Neighborhood Committee if the Owners in the Neighborhood so choose. Neighborhood Designations in Aspen Ridge Phase III are as follows:

(a) **Bungalow Neighborhood:** All Bungalow Units, as defined at Section 2.36 below.

(b) **Townhome Neighborhood:** All Townhome Units, as defined at Section 2.36 below.

(c) **Cattail Point Condominium Neighborhood:** All Cattail Point Condominium Units as defined at Section 2.36 below.

(d) **Woodpecker Flat Condominium Neighborhood:** All Woodpecker Flat Condominium Units as defined at Section 2.36 below.

(e) **Dragonfly Glen Condominium Neighborhood:** All Dragonfly Glen Condominium Units as defined at Section 2.36 below.

In the event that any Townhome Unit or Condominium Unit is converted to a Bungalow Unit in accordance with Section 15.6 of the Declaration, such Units shall become part of the Bungalow Neighborhood.

2.30 Neighborhood Committee: A Committee, established in accordance with the Bylaws which shall represent the interests of the Neighborhood and make recommendations to the Board regarding issues of common interest to the Neighborhood, including, without limitation:

(a) the maintenance, management and improvement of Exclusive Use Common Areas within or primarily benefiting the Neighborhood;

(b) the budgeting and allocation of Benefited Unit Assessments for the Neighborhood; and,

(c) any other matters of interest to or affecting the Neighborhood or its members.

Neighborhood Committees may also be established to coordinate multiple Neighborhoods. For example, a committee could be established for all Condominium Neighborhoods.

2.31 Owner: The person or persons, entity or entities who own of record, according to the real property records of Valley County, Idaho, fee simple title to a Unit.

2.32 Person: A natural person, a corporation, a partnership, a trustee, or any other legal entity.

2.33 Plat: Any final plat recorded for Aspen Ridge Phase III, pursuant to the requirements of the City of McCall.

2.34 Property: Any and all real property which is now or may hereafter be included within Aspen Ridge Phase III, including public or private streets, roads and any public or private easements or rights-of-ways and including any and all improvements on any of the foregoing.

2.35 Property Furnished by Declarant: Any real property, any improvement or portion of any improvement on real property and any personal property or equipment with respect to which Declarant grants, assigns or conveys to the Association title, interests in, or rights of use, or with respect to which Declarant permits use by the Association or some or all Owners or Guests and any replacement of or substitute for any of the foregoing. Property Furnished by Declarant may include, but is not limited to, the access streets or streets serving Aspen Ridge Phase III; Common Areas within Aspen Ridge Phase III, walks, commons, bike paths, stairs, landscaping, trees, shrubs, ponds, seating benches, aesthetic structures, lighting, walk coverings and other common area improvements; parking areas; snow removal, maintenance or other equipment. The Association shall be obligated to, and shall accept the title to, interests in, or rights of use with respect to any Property Furnished by Declarant which may be assigned, granted, or conveyed to the Association by Declarant, subject to such reservations, restrictions and conditions as Declarant may reasonably request.

2.36 Unit: Each parcel of real property within Aspen Ridge Phase III, as reflected on a recorded Plat for such parcel, whether improved or unimproved, which may be independently owned and conveyed and which is intended for development, use, or occupancy. The boundaries of each Unit are described at Section 2.37 below. The term shall refer to the land, as well as any structures and improvements thereon. Notwithstanding the foregoing, the following shall not be considered a Unit: Common Areas; common property of the Association; property dedicated to the public; or, a parcel of property owned, held or used in its entirety by the Association, or by any governmental entity, or for or in connection with the distribution of electricity, gas, water, sewer, telephone, television or other utility service or for access to any property within or without Aspen Ridge Phase III. In the case of a parcel of vacant land or land on which improvements are under construction, and for which a Plat has been recorded with Valley County for a condominium or for multi-family housing, the parcel shall be deemed to contain the number of Units designated for such parcel in the Plat.

(a) **Bungalow Units:** Units 1, 2, 3, 28, 31, 32, and 36 – 42, as well as Combined Bungalow Units 29&30, Combined Townhome Units 4&5, Combined Townhome Units 10&11, Combined Townhome Units 18&19, Combined Townhome Units 22&23, and Converted Condominium Parcel A, for a total of 19 Bungalow Units. The aforementioned Combined Bungalow Units, Combined Townhome Units and Converted Condominium Parcels each equate to a single Bungalow Unit. Note that additional Bungalow Units may be combined, and additional Townhome Units and Condominium Units may be converted to Bungalow Units, pursuant to Section 15.6 below.

(b) **Townhome Units:** Units 6 – 9, 12 – 17, 20, 21, 24 – 27, and 43 – 56, as shown on the Plat for Aspen Ridge Phase III, for a total of 30 Townhome Units. Note that additional Townhome Units may be converted to Bungalow Units, pursuant to Section 15.6 below.

(c) **Condominium Units:** The following Units, which are shown on the Plat for Aspen Ridge Phase III, for a total of 29 Condominium Units:

(i) **Cattail Point Condominium Units 57 – 62** together with Garage Units G57-G62, for a total of 6 Cattail Point Condominium Units;

(ii) **Woodpecker Flat Condominium Units 63 – 72** together with Garage Units G63 – G72, for a total of 10 Woodpecker Flat Condominium Units. The Garage Units for Units 63 – 72 are depicted at Sheet 11 of the Plat directly across a breezeway and adjacent to the condominium Unit to which is it assigned, but the Garage Unit numbers are not included. For purposes of referring to all Garage Units in the Woodpecker Flat Condominium Neighborhood, the Garage Unit associated with each Unit shall hereby be defined as the Garage Unit depicted at Sheet 11 of the Plat directly across the breezeway from the Unit itself; and;

(iii) **Dragonfly Glen Condominium Units 73 – 85** together with Garage Units 73 – 85, for a total of 13 Dragonfly Glen Condominium Units.

Note that these Condominium Units may be converted to Bungalow Units, pursuant to Section 15.6 below.

A Condominium Unit shall include the fee simple interest in and to the Condominium Unit, together with the associated Garage Unit, and together with the undivided interest in the Exclusive Common Areas allocable to each Condominium Unit at Section 2.24(b) above.

2.37 Unit Boundaries: The boundaries of each Unit shall be as follows:

(a) **Bungalow Units:** The boundaries of the Unit as shown on the Plat

(b) **Townhome Units:** The boundaries of the Unit as shown on the Plat, with ownership to the Common Wall Unit Line between Townhome Units as described at Section 10.1 below.

(c) **Condominium Units:** Condominium Units consist of enclosed rooms in the Building and are legally bounded by:

(i) the Interior Surface of Perimeter Unit Walls; and,

(ii) the Interior Surface of Subfloors, ceilings, doors and windows.

(d) **Additional Terms Related to Condominium Units:** For the purpose of defining Internal Units, the terms set forth below shall be defined as follows:

(i) **Interior Surface of Perimeter Unit Wall:** The inside surface (i.e., the inside face of the sheetrock) of a wall which forms part of the perimeter of a Condominium Unit.

(ii) **Interior Surface of Subfloor:** The surface of the subfloor of a Unit on which the visible floor covering is placed.

(iii) A Unit shall include the drywall, wall paneling, wood, tile, paint, paper, carpeting, or any other wall, ceiling, or floor covering, windows and window frames and glass, shutters, awnings, doorsteps, stoops, and interior doors and door frames. A Unit shall also include any fireplace or stove hearth, facing brick, tile or firebox. A Unit shall further include fixtures and hardware and all improvements contained within the walls, ceilings, and floors. A Unit shall include any heating and refrigerating elements or related equipment, utility lines and outlets, electrical and plumbing fixtures, pipes, and all other related equipment required to provide heating, air conditioning, hot and cold water, electrical, or other utility services to the Internal Unit and located within the walls, ceilings, and floors; provided, however, that an Internal Unit shall not include any of the structural components of the Building or utility or service lines located within the Internal Unit which serve more than one Internal Unit.

ARTICLE 3. Aspen Ridge Phase III Association

3.1 Organization: The Aspen Ridge Phase III Association, Inc. (the "Association") shall be initially organized by Declarant as an Idaho, non-profit corporation. The Association is charged with the duties and vested with the powers prescribed by law and as set forth in the Association Articles of Incorporation and Bylaws, and this Declaration.

3.2 Membership: Each Owner of a Unit within Aspen Ridge Phase III shall be a Member of the Association. Said Members shall be allocated among two classes of membership, as defined and described in the Bylaws. The two classes of membership are as follows: (1) Class A-Residential Regular Membership; and, (2) Class B-Declarant Priority Membership. The details with regard to the members of each Class, together with voting rights and the appointment of directors, are all defined and described in the Bylaws.

3.3 Aspen Ridge Homeowners' Association: The Aspen Ridge Homeowners' Association, Inc. has been previously created. In addition to membership in the Aspen Ridge Phase III Association, each owner of a Unit shall be a Member of the Aspen Ridge Homeowners' Association, Inc., and shall be entitled to one vote for each Unit owned pursuant to Section 5.3 of the Master Declaration.

3.4 Compliance with Association Documents: All members shall comply with the terms and conditions of all Association Documents and all Aspen Ridge Homeowners' Association Documents, as well as all Rules and Regulations which may be enacted by the Board pursuant to the Association Documents.

3.5 Neighborhood Designations: Neighborhood designations have been made at Section 2.29 for all Units in Aspen Ridge Phase III.

ARTICLE 4. Assessments And Other Amounts

4.1 Obligation for Assessments and Other Amounts: Declarant for each Unit it owns hereby covenants; and, each Owner, by acceptance of a deed for his Unit, whether or not it shall be so expressed in any such deed or other conveyance; shall be conclusively deemed to have covenanted and agreed to pay to the Association the Common and Special Assessments and charges, fines, penalties or other amounts, to be levied, fixed, established and collected as set forth in this Declaration and the Articles, Bylaws and rules and regulations of the Association as from time to time are in force and effect. The various types of Assessments, as described at Article 9 of the Bylaws, include the following: Common Assessments and the following Special Assessments: Phase III Special, Aspen Ridge Master, Benefited Unit, Real Estate Transfer, and Compliance Assessments. The Declarant's obligations hereunder may be satisfied in the form of cash or by "in kind" contributions of services or materials, or by a combination of these.

4.2 Purpose of Assessments and Other Amounts: The assessments levied and any charge, fine, penalty or other amount collected by the Association shall be used exclusively to pay expenses that the Association may incur in performing any actions or functions permitted or required under this Declaration, or its Articles or Bylaws as from time to time are in force and effect, including the funding of Reserve and Contingency Accounts.

4.3 Time for Payments: The amount of any assessment, charge for interest or otherwise, fine, penalty or other amount payable by any Owner or with respect to such Owner's Guests or Unit shall become due and payable as specified in the Articles or Bylaws. In addition, the Bylaws may authorize the Association, during the period of any delinquency, to suspend an Owner's voting privileges or any other privileges stemming from membership in the Association.

4.4 Lien for Assessments and Other Amounts: In addition to any other remedies specified herein or in the Bylaws, or allowed by law, the Association shall have a lien against each Unit to secure payment of any assessment, charge, fine, penalty or other amount due and owing to the Association, as provided in the Bylaws.

4.5 Liability of Owners, Purchasers and Encumbrances: The amount of any assessment, charge, fine or penalty payable by any Owner, or with respect to such Owner's Guests or Unit shall also be a joint and several personal obligation to the Association of such Owner and such Owner's heirs, personal representatives, successors and assigns. A party acquiring fee simple title to a Unit shall be jointly and severally liable with the former Owner of the Unit for all such amounts which had accrued and were payable at the time of the acquisition of fee simple title to the Unit by such party, without prejudice to such party's right to recover any of said amounts from the former Owner. Each such amount, together with interest thereon at the Default Rate and reasonable attorney's fees and costs, may be recovered by suit for a money judgment by the Association without foreclosing or waiving any lien securing the same. Notwithstanding the foregoing, the holder of a mortgage, deed of trust or other lien on a Unit shall not be liable for any such assessment, charge, fine or penalty and the lien for any such assessments, charges, fines or penalties shall be junior to any first lien on a Unit taken in good faith and for value and perfected by recording in the office of the Recorder of Valley County, Idaho, prior to the time a notice of failure to pay any such amount is recorded in said office, describing the Unit and naming the Owner of the Unit.

ARTICLE 5. Property Rights

5.1 Common Area: Every Owner in all phases of Aspen Ridge shall have a right and nonexclusive easement of use, access, and enjoyment in and to the Common Area, subject to:

- (a) The Aspen Ridge Homeowners' Association Documents, the Aspen Ridge Phase III Association Documents, and any other applicable covenants;
- (b) Any restrictions or limitations contained in any deed conveying such property to the Association;
- (c) The right of the Board to adopt rules regulating the use and enjoyment of the Common Area, including rules restricting use of any Association Facilities which may be located within the

Common Area to occupants of Units and their guests and rules limiting the number of guests who may use the Common Area;

(d) The right of the Board to suspend the right of an Owner to use any Common Area or any Association Facilities located within the Common Area (i) for any period during which any charge against such Owner's Unit remains delinquent; and, (ii) for a period not to exceed thirty (30) days for a single violation or for a longer period in the case of any continuing violation of the Declaration, the Bylaws, or rules of the Association, after notice and a hearing as provided in the Bylaws;

(e) The right of the Association, acting through the Board, to dedicate or transfer all or any part of the Common Area pursuant to the terms of this Declaration;

(f) The right of the Association, acting through the Board, to mortgage, pledge, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred;

(g) The right of Declarant to place utilities within any Common Area, and the right to grant easements for the maintenance and repair of such utilities;

(h) The right of Declarant to utilize Common Areas for snow removal storage; and,

(i) Declarant's reserved rights described at Article 11.

Any Owner may extend his or her right of use and enjoyment to the members of his or her family, lessees, and social invitees, subject to reasonable Board regulation. An Owner who leases his or her Unit shall be deemed to have assigned all such rights to the lessee of such Unit, unless provided to the contrary in the Lease.

5.2 Exclusive Common Areas: All costs associated with maintenance, repair, replacement, and insurance of Exclusive Common Areas shall be assessed as a Benefited Unit Assessment pursuant to the Bylaws.

Declarant may construct any improvement, utilities, or fixtures within an Exclusive Common Area that Declarant, in Declarant's discretion, determines will benefit the Owners of Units assigned the exclusive use of such Exclusive Use Common Area. Additionally, such Owners may propose to the Board any improvement to such Exclusive Use Common Area that they feel will benefit such Owners.

ARTICLE 6. Certain Obligations and Rights of Aspen Ridge Phase III Association

6.1 Property Maintenance Function:

(a) **Association Facilities:** The Association shall provide for the care, operation, management, maintenance, repair and replacement of all Association Facilities, including but not limited to Common Areas, Exclusive Common Areas, Association Facilities, trails, streets and roads. Said obligation shall include, without limitation, removal of snow from and application of sand and salt to parking areas, streets, roads, walks, drives, stairs and other similar facilities as necessary for their customary use and enjoyment; maintenance and care of all common area or unimproved areas included in the Association Facilities and of plants, trees and shrubs in such common area or unimproved areas, maintenance of lighting provided for parking areas, streets, roads, walks, drives, stairs, and other similar facilities. Said obligations may also include maintenance of streets, roads, walks, drives and loading areas which are not Association Facilities as may be necessary or desirable for access to the boundary of or full utilization of Association Facility.

(b) **Maintenance of Certain Neighborhood Improvements:** The Exclusive Common Areas for each Condominium Neighborhood are to be maintained by the Association, pursuant to Section 7.3 below. The expense for such maintenance shall be assessed pursuant to the Bylaws as a Benefited Unit Assessment. Any Condominium Neighborhood may modify the level of maintenance provided by Association to the Neighborhood with the approval of at least 51% of the Owners in the Neighborhood present in person or by proxy at a meeting at which a quorum is established, and the approval of the Board. The level of maintenance provided by the Association to the Bungalow Neighborhood and the Townhome Neighborhood may be modified in accordance with Section 9.2(c)(ii) of the Bylaws.

6.2 Exterior Maintenance for Compliance Function:

(a) If any Owner fails to maintain his Unit or improvements on such Unit or fails to perform any acts of maintenance or repair required under this Declaration or the Phase III Design Guidelines, the

Association may provide exterior maintenance and repair upon such Unit and improvements thereon, in response to a request from the Board, pursuant to the provisions of Section 8.4, or, on its own volition, after 30 days prior written notice to the Owners and, if applicable, the Lessees of the Unit. In addition, the Association may, without notice, make such emergency repairs and maintenance as may in its judgment be necessary for the safety of any person or to prevent damage to any other property. The cost of such exterior maintenance and repair shall be assessed against the Owner of such Unit as a Compliance Assessment; shall be a lien and obligation of the Owner pursuant to Section 4.4 herein; shall be a joint and several liability of the Owners of the Unit; and, shall become due and payable in all respects as set forth in Section 4.3 herein. For the purpose of performing the exterior maintenance authorized by this Section 6.2, the Association, through its duly authorized agents or employees, shall have the right, after reasonable notice to any Owner, to enter upon such Unit during reasonable hours on any day except Saturday or Sunday. The Association or its designee is hereby granted an irrevocable license over all property in Aspen Ridge Phase III to inspect (in a reasonable manner) property within Aspen Ridge Phase III in order to determine whether any maintenance or repair is necessary under this Section 6.2.

(b) Neither Declarant, the Association, nor any of their respective directors, officers, agents or employees shall be liable for any incidental or consequential damages for failure to inspect any Unit's improvements or portion thereof or to repair or maintain the same. Declarant, the Association or any other person, firm or corporation undertaking such repairs or maintenance shall not be liable for any personal injury or other incidental or consequential damages occasioned by any act or omission in the repair or maintenance of any Unit, improvements or portion thereof.

6.3 Other Functions: The Association may undertake and perform other Functions as it deems reasonable or necessary to carry out the provisions of this Declaration.

6.4 Insurance: The Association shall obtain in its name and keep in full force and effect at all times at least the following insurance coverage: (a) casualty insurance with respect to all insurable Association Facilities, insuring such Association Facilities for the full replacement value thereof, and including coverage for fire and extended coverage, vandalism and malicious mischief; and (b) broad form comprehensive liability coverage, covering both public liability and automobile liability, with limits in amounts reasonably necessary to insure against foreseeable liability; and, (c) property damage insurance for the Condominium Units as provided at Section 11.3 below. The Association may obtain additional insurance at its discretion. All insurance may contain such deductible provisions as good business practice may dictate. All insurance shall name Declarant as an additional insured and shall, to the extent reasonably possible, cover each Owner without each Owner being specifically named. The Association shall provide to Declarant, upon request, certificates evidencing such insurance and copies of the insurance policies.

6.5 Indemnification: The Association shall be obligated to and shall indemnify Declarant and hold it harmless from all liability, loss, cost, damage and expense, including attorneys' fees, arising with respect to any operations of the Association or any Association Facilities or Functions.

6.6 Right to Make Rules and Regulations: The Association shall be authorized to and shall have the power to adopt, amend and enforce rules and regulations applicable within Aspen Ridge Phase III with respect to any Association Facility or Function, and to implement the provisions of this Declaration, the Articles or Bylaws, including but not limited to, rules and regulations to prevent or reduce fire hazard; to prevent disorder and disturbances of the peace; to regulate pedestrian and vehicular traffic; to regulate animals; to regulate the budgeting and assessment procedures according to the Association Documents; to regulate signs; to regulate use of any and all Association Facilities to assure fullest enjoyment of use by the persons entitled to enjoy and use the same; to promote the general health, safety and welfare of persons within Aspen Ridge Phase III; and to protect and preserve property and property rights. All rules and regulations adopted by the Association shall be uniformly applied, except such rules may differentiate between reasonable categories of Units or Owners. The Association may provide for enforcement of any such rules and regulations through reasonable and uniformly applied fines and penalties, through exclusion of violators from Association Facilities or from enjoyment of any Functions, or otherwise. Each Owner and Guest shall be obligated to and shall comply with and abide by such rules and regulations and pay such fines or penalties upon failure to comply with or abide by such rules and regulations and such unpaid fines and penalties shall be enforceable in accordance with Section 4.4.

In the promulgation of such Rules and Regulations, the Association shall have broad discretion and shall endeavor to maintain a community standard consistent with the intents and purposes of the Association Documents, without being limited to the literal language thereof. In the event of any challenge to any such Rule or Regulation,

the Rule or Regulation shall be upheld unless it is found by clear and convincing evidence to be: (i) in express violation of the Association Documents; (ii) in express violation of an applicable federal, state, county, city or district statute, ordinance or regulation; or, (iii) arbitrary, capricious, unreasonable and

6.7 Taxes: The Association shall pay all ad valorem real estate taxes, special improvement and other assessments (ordinary and extraordinary), ad valorem personal property taxes, and all other taxes, duties, charges, fees and payments required to be made to any governmental or public authority which shall be imposed, assessed or levied upon, or arise in connection with any Association Facilities or Functions.

6.8 Coordinate with Aspen Ridge Homeowners' Association: The Association shall coordinate with the Aspen Ridge Homeowners' Association, with regard to the following: (1) architectural review by the Aspen Ridge Architectural Committee; (2) assessments due from the owners of Units in Aspen Ridge Phase III to the Aspen Ridge Homeowners' Association; and, (3) coordinate other interactions between the two associations and between the owners of lots in Aspen Ridge Phase III and the Aspen Ridge Homeowners' Association.

6.9 Governmental Successor: Any Facility and any Function may be turned over to a governmental entity which is willing to accept and assume the same upon such terms and conditions as the Association shall deem to be appropriate.

6.10 Implied Rights of the Association: The Association shall have and may exercise any right or privilege given to it expressly in this Declaration or, except to the extent limited by the terms and provisions of this Declaration, given to it by law and shall have and may exercise every other right of privilege or power and authority necessary or desirable to fulfill its obligations under this Declaration, including the right to engage labor and acquire use of or purchase property, equipment or facilities; employ personnel; obtain and pay for legal, accounting and other professional services; maintain accounts and reserve accounts; enter into contracts and subcontracts; and, to perform any Function by, through or under contractual arrangements, licenses, or other arrangements with any governmental or private entity as may be necessary or desirable.

ARTICLE 7. Restrictions Applicable to Aspen Ridge Phase III

7.1 Limitation of Building Improvements for Bungalow Units: Bungalow Units may not contain any Building Improvements except: a Bungalow Structure; a garage of a size and at a location approved in writing by the ACC, which may be attached or detached; such driveways and parking areas as may be approved in writing by the ACC; landscaping improvements approved in writing by the ACC; and, such other improvements as may be approved in writing by the ACC.

The maintenance and repair of all landscaping and the exterior of all Building Improvements on each Bungalow Unit shall be performed by the Owner of the Unit. The ACC shall have the authority to promulgate such rules and regulations as it determines are necessary to maintain consistency in the exteriors of the improvements in the Bungalow Neighborhood, including but not limited to restrictions as to the types of items that can be placed outside the Building Improvements.

7.2 Limitation of Building Improvements for Townhome Units: Townhome Units may not contain any Building Improvements except: a Townhome Structure; a garage of a size and at a location approved in writing by the ACC, which may be attached or detached; such driveways and parking areas as may be approved in writing by the ACC; landscaping improvements approved in writing by the ACC; and, such other improvements as may be approved in writing by the ACC.

The maintenance and repair of all landscaping and the exterior of all Building Improvements on each Townhome Unit shall be performed by the Owner of the Unit. The Owners of adjoining Townhome Units shall work together to maintain both sides of the Townhome in a uniform manner. For example, the color scheme of both sides of the Townhome shall be consistent, and both sides shall be repainted at generally the same time so that the brightness of the colors is consistent as to the entirety of the Townhome. Roofing shall be replaced at the same time unless the roof over one side of the Townhome can be replaced in such a manner as to keep the entirety of the roof looking consistent. If there is disagreement between the Owners of adjoining Townhome Units as to the necessity of repair or maintenance that should be done at the same time by both Owners, one or both of the Owners may contact the ACC to obtain a determination as to whether such repair or maintenance should be completed, the general timeline for completion, and whether such repair or maintenance needs to be completed at the same time for both sides of the Townhome. The ACC shall have the authority to promulgate such rules and regulations as it determines are necessary to maintain consistency in the exteriors of the improvements in the Townhome Neighborhood,

including but not limited to restrictions as to the types of items that can be placed outside the Building Improvements, and the window coverings that can be used.

7.3 Limitation of Building Improvements for Condominium Parcels: Condominium Parcels may not contain any Building Improvements except: the Buildings, including Garages, depicted on the Plat, as the same may be amended with the prior approval of the ACC and the City of McCall; such driveways and parking areas as may be approved in writing by the ACC; landscaping improvements approved in writing by the ACC; and, such other improvements as may be approved in writing by the ACC.

The maintenance and repair of all Exclusive Common Areas on each Condominium Parcel shall be performed by the Association, with the cost of the same to be assessed as a Benefited Unit Assessment to each Condominium Neighborhood. See Sections 9.10 and 9.11 below with regard the Landscape, Maintenance, Repair and Replacement Easement For Condominium Units granted to provide for this maintenance and repair. The ACC shall have the authority to promulgate such rules and regulations as it determines are necessary to maintain consistency in the exteriors of the improvements in each Condominium Neighborhood, including but not limited to restrictions as to the types of items that can be placed outside the Building Improvements, and the window coverings that can be used.

7.4 Setbacks: Following are the setbacks for Bungalow, Townhome and Condominium Units: All setbacks shall be according to the setbacks specified in the McCall City Code, as enacted on March 16, 2006, with the following clarifications/exceptions: (a) The rear yard setback for Units 29, 30 and 31 shall be 10'; (b) The side yard setback for all sides except the Common Wall Line for Units 43 – 56 shall be 5'; (c) For all Common Wall Lines on Townhome Units, the Common Wall Line setback shall be zero; (d) The setback from the Dragonfly Loop right of way for Unit 46 shall be 15'; (e) The side yard and rear yard setbacks on Parcels A, B, C and D-2 shall be 10'; (f) The setbacks on Parcels A, B, C and D-2 from the Spring Mountain Boulevard right of way, the Dragonfly Loop right of way, the Aspen Ridge Lane right of way and the Peninsula Place right of way shall be 20'; and, (g) The side yard and rear yard setbacks on Parcel D-1 shall be 5', and the setback from Dragonfly Loop for Parcel D-1 shall be 15'.

This Section 7.4 may not be amended without the prior approval of the City of McCall and the Board.

7.5 Parking and Recreational Vehicles / Trailers:

(a) **Required Parking Spaces:** For each Bungalow, Townhome and Condominium Unit, the following minimum parking shall be constructed: A single car garage, plus one additional parking space that is at least 9' wide and 20' long, plus one additional parking space for every two units of no less than 10' wide and 20' long. The said additional parking spaces are in addition to any driveway for a Bungalow and Townhome Unit. The additional parking spaces may be placed in the street right-of-way for Dragonfly Loop for some Units, but may not be within the paved traveled way of Dragonfly Loop. General locations of parking for each Unit are depicted on the site plan for parking attached as Appendix A to the Design Guidelines. These locations may be modified with the prior approval of the Board, and the Declarant prior to the Conversion Date. Parking spaces for each Unit must be paved, and shall be constructed prior to or concurrent with construction of each Unit.

(b) **Recreational Vehicles and Trailers / Designation of Parking:** All recreational vehicles, trailers, and trailers containing recreational vehicles shall be maintained inside a garage; or, they can be kept in a parking space associated with the Unit for a maximum of 48 hours so long as the entire vehicle or trailer fits within the confines of the parking space. Any such parking outside of a garage may be approved by the Board in its sole discretion. The Board shall have the right to promulgate additional rules and regulations with regard to parking, and with regard to the allocation or designation of parking spaces.

7.6 Design Guidelines: All Building Improvements on any Unit must be built strictly in accordance with the provisions of the Phase III Design Guidelines. By acquiring any interest in a Unit, the Owner of such Unit consents to and accepts the authority of the Aspen Ridge Architectural Committee to review and approve the plans and specifications for any Building Improvements on such Unit in accordance with the Design Guidelines in effect from time to time. In particular, such Owner recognizes that certain of the judgments which will be made by the Aspen Ridge Architectural Committee are subjective in nature, and such Owner agrees not to contest such subjective judgments unless they are made in bad faith or in an arbitrary and capricious manner.

7.7 Use of Units:

(a) **Residential Use:** The Units shall be used only for single family residential purposes with customary accessory uses, except as permitted under Section 7.7(b). Customary accessory uses shall include but not be limited to long or short term rentals to persons who use such improvements for residential or lodging purposes.

(b) **Home Office:** An Affected Unit may also be used for a Home Office, only if the Association has issued a written permit for such activity. The Association may refuse to issue a permit in its sole and absolute discretion, if, in the Association's reasonable judgment, such activity would:

- (i) create additional vehicular traffic to or from such Unit;
- (ii) employ persons at such lot other than those residing at such Unit;
- (iii) require storage of any significant materials, machinery, inventory or other items on such Unit;
- (iv) require processing of materials into finished products or the assembly of parts produced off site;
- (v) require additional parking at such lot, whether for customers, delivery or otherwise;
- (vi) be incompatible with the quiet enjoyment of the surrounding Units by such Units' Owners; or,
- (vii) otherwise violate the provisions of Article 7 or 8 of this Declaration.

Any such permit shall be issued for such period and upon such terms as the Association, in its sole discretion, deems reasonable.

7.8 Timeshares:

(a) Except as otherwise approved in writing by Declarant (or the Board after the Conversion Date), which approval can be withheld for any reason, no Unit, whether leased or owned, shall be used:

(i) for the operation of a timesharing, fraction-sharing, interval ownership or similar program whereby the right to exclusive use of the Unit rotates among participants in the program on a fixed or floating time schedule over a period of years; or,

(ii) for the operation of a reservation or time-use system among co-Owners of a Unit, regardless of whether or not any co-Owner may later opt out of such system and regardless of whether the reservation or time-use system is recorded or unrecorded, fixed or floating, if one or more of the following conditions exist:

A. such system is adopted, imposed or managed by a party other than the co-Owners themselves, or,

B. the ownership interest in such Unit is publicly marketed for sale subject to such system, or,

C. the co-Owners are or were required as a condition of purchase of the ownership interest in such Unit to subject the interest to a pre-determined reservation or time-use system among co-Owners; or,

(iii) in the marketing, offering or selling of any club membership interest, limited liability company interest, limited partnership interest, program interest or other interest whereby the interest-holder acquires a right to participate in a reservation or time-use system among the interest-holders, or among the interest-holders and others, involving the Unit, or involving the Unit and other alternate or substitute properties, regardless of whether such interest is equity or non-equity, regardless of whether or not any interest-holder may later opt out of such system and regardless of whether the reservation or time-use system is recorded or unrecorded, fixed or floating (such interest referred to herein as an "Interest"), if one or more of the following conditions exist:

A. such system is adopted, imposed or managed by a party other than the Interest-holders themselves, or,

B. the Interest is publicly marketed for sale, or,

C. the Interest-holders are or were required as a condition of purchase of the Interest to be subject to a pre-determined reservation or time-use system among Interest-holders, or among Interest-holders and others;

(all of the foregoing uses, systems or programs are collectively referred to as a "Timeshare Program").

(b) Mere co-ownership of a Unit, ownership of a Unit by an entity, or leasing of a Unit shall not create a Timeshare Program unless it meets any of the conditions described above in this Section 7.8. The definition of Timeshare Program expressly excludes (i) the voluntary inclusion of a Unit in a rental pool program, whether managed by the Owner or a party other than the Owner; and, (ii) any activities, programs, or offerings of the Association.

7.9 Outside Burning: There shall be no exterior fires, except barbecues operated reasonably and in accordance with Rules and Regulations, and such outside fire facilities, operated by the Association or the Owner of a Commercial Unit, as may be approved by the Association. No Owner shall permit any condition upon a Unit which creates a fire hazard or is in violation of fire prevention regulations.

7.10 Additional Restrictions: Upon such conditions as are deemed necessary by the ACC to maintain compliance with the intents and purposes of the Association Documents, additional restrictions on the use of Property within Aspen Ridge Phase III shall be provided in Supplemental Declarations, the Design Guidelines and/or Rules and Regulations promulgated by the Board.

7.11 General Use Guidelines and Restrictions: The following guidelines and restrictions are applicable to all Property within Aspen Ridge Phase III:

- All terms and conditions of the Aspen Ridge Phase III Association Documents and the Aspen Ridge Homeowners' Association Documents;

- All Notes contained on any final plat;

- All terms and conditions imposed by the City of McCall or any state or federal agency, including but not limited to the Army Corps of Engineers, the Idaho Department of Water Resources, and the Idaho Department of Environmental Quality.

ARTICLE 8. Design Review

8.1 Aspen Ridge Architectural Committee : Owners of Units in Aspen Ridge Phase III are subject to design review by the Aspen Ridge Architectural Committee. The design guidelines, however, pursuant to which the Aspen Ridge Architectural Committee will make its determination will be specific to Aspen Ridge III, as described below.

8.2 Phase III Design Guidelines: The Declarant, and/or the Association (as provided below) shall promulgate and publish rules and regulations that shall state the general design theme of all projects in Aspen Ridge Phase III, specific design requirements, and the general construction procedures that will or will not be allowed in Aspen Ridge Phase III. The Design Guidelines may contain general provisions applicable to all of Aspen Ridge Phase III, as well as specific provisions which vary from one portion of the Aspen Ridge Phase III to another depending upon the location, unique characteristics, and intended use.

8.3 Amendment of Design Guidelines: The Design Guidelines may be amended as follows: the AR III Board may propose amendments to the Aspen Ridge Homeowners Association Board; and, any such amendments must be approved in writing by the Aspen Ridge Homeowners Association Board of Directors, which approval shall be reasonably given so long as the amendments do not reduce the quality of the improvements or reduce setbacks; and, until such time as the Declarant no longer owns any Units in Aspen Ridge Phase III, the amendment must be approved in writing by the Declarant.

Any amendments to the Design Guidelines shall apply to construction and modification of structures and improvements commenced after the date of such amendment only and shall not apply to require modifications to or removal of Structures previously approved once the approved construction or modification has commenced;

provided, the construction or modification has proceeded in accordance with the plans and specification therefore, as approved.

The ACC shall make the Design Guidelines available to Owners and Builders who seek to engage in development or construction within Aspen Ridge Phase III, and all such Persons shall conduct their activities in accordance with such Design Guidelines. THE BURDEN SHALL BE ON THE OWNER AND THE BUILDER TO ENSURE THAT THEY HAVE THE MOST CURRENT DESIGN GUIDELINES.

8.4 Exterior Maintenance: Pursuant to the provisions of Section 6.2, the Board may, by vote of a majority of the Board members present at any meeting, after 30 days notice to the Owner, request that the Association provide exterior maintenance and repair upon any Unit.

8.5 Liability: Neither Declarant, the Association nor the ACC nor any of their respective officers, directors, employees or agents shall be responsible or liable to any person for any defects in any plans or specifications submitted, revised or approved under this Article 8 nor for any defects in construction performed pursuant to such plans and specifications. Approval of plans and specifications under this Article 8 shall not relieve the Owner of strict compliance with applicable governmental laws or regulations.

ARTICLE 9. Easements

9.1 Easements of Encroachment: There shall be reciprocal appurtenant easements of encroachment, and for maintenance and use of any permitted encroachment, between each Unit and adjacent Exclusive Common Area and between adjacent Units due to the unintentional placement or settling or shifting of the improvements constructed, reconstructed, or altered thereon (in accordance with the terms of these restrictions) to a distance of not more than three feet, as measured from any point on the common boundary along a line perpendicular to such boundary. However, in no event shall an easement for encroachment exist if such encroachment occurred due to willful and knowing conduct on the part of, or with the knowledge and consent of, an Owner, occupant, or the Association.

9.2 Easements for Utilities, Etc.: There are hereby reserved unto Declarant, so long as the Declarant owns any property subject to this Declaration, the Association, and the designees of each (which may include, without limitation, Valley County, the City of McCall and any utility) access and maintenance easements upon, across, over, and under all of Aspen Ridge Phase III to the extent reasonably necessary for the purpose of constructing, replacing, repairing, and maintaining: cable television systems, master television antenna systems, security and similar systems, communications systems, streets, walkways, bicycle pathways, trails, ponds, wetlands, drainage systems, surface water management facilities, street lights, signage, and all utilities, including, but not limited to, water, sewers, meter boxes, telephone, and electricity, and for the purpose of installing any of the foregoing on property which it owns or within easements designated for such purposes on recorded plats of Aspen Ridge Phase III. This easement shall not entitle the holders to construct or install any of the foregoing systems, facilities, or utilities over, under or through any existing dwelling on a Unit, and any damage to a Unit resulting from the exercise of this easement shall promptly be repaired by, and at the expense of, the Person exercising the easement. The exercise of this easement shall not unreasonably interfere with the use of any Unit and, except in an emergency, entry onto any Unit shall be made only after reasonable notice to the Owner or occupant.

Additionally, Declarant reserves the right to construct utilities and irrigation facilities within any Utility Easement, street and street right of way, and within any Common Area parcel which is depicted on the Plat, and to grant easements for the repair and maintenance of any such utility or irrigation facility. Additionally, snow may be placed within any Utility Easement abutting a street, for the placement of snow plowed, blown or otherwise cleared from driveways, streets, or Common Area parcel. No Building Improvements shall be constructed within any Utility Easement other than utility or irrigation-related improvements, or as may be permitted pursuant to the Design Guidelines. All Utility Easements are reserved in perpetuity.

9.3 Easements for Collection of Storm Water Runoff and Flood Water: The Declarant reserves for itself, and its successors, assigns, and designees the nonexclusive right and easement, but not the obligation, to enter upon any property to (a) install, keep, maintain, and replace irrigation ditches, equipment or systems; (b) construct, maintain, and repair any structure designed to divert, collect or retain water; and (c) remove trash and other debris. The Declarant's rights and easements provided in this Section shall be transferred to the Association at such time as the Declarant shall cease to own any property subject to the Declaration, or such earlier time as Declarant may elect, in its sole discretion, to transfer such rights by a written instrument.

9.4 Easements for Maintenance, Emergency, and Enforcement: Declarant grants to the Association easements over Aspen Ridge Phase III as necessary to enable the Association to fulfill its maintenance responsibilities under Article 6. The Association shall also have the right, but not the obligation, to enter upon any Unit for emergency, security, and safety reasons, to perform maintenance and to inspect for the purpose of ensuring compliance with and enforce the Association Documents, after prior written notice to the Owner(s) of the Unit. Such right may be exercised by any member of the Board and its duly authorized agents and assignees, and all emergency personnel in the performance of their duties. Except in an emergency situation, entry shall only be during reasonable hours and after reasonable notice to the Owner. This right of entry shall include the right of the Association to enter upon any Unit to cure any condition which may increase the possibility of a fire or other hazard in the event an Owner fails or refuses to cure the condition within a reasonable time after requested by the Board, but shall not authorize entry into any single or multi family detached dwelling without permission of the Owner, except by emergency personnel acting in their official capacities.

9.5 Compliance With Wetlands Permit: All Owners purchase their Units with the knowledge that Aspen Ridge Phase III contains jurisdictional wetlands, which are governed by the terms of Aspen Ridge Phase III's Wetlands Permit(s), and the terms and conditions associated therewith. By purchasing their Units, Owners agree to comply with and be bound by the terms and conditions of the Permits.

9.6 View Impairment: Neither the Declarant or the Association guarantees nor represents that any view over and across any Common Area parcel, or any Unit from adjacent Units will be preserved without impairment. Neither the Declarant, the Association, nor the Owner of a Unit shall have an obligation to prune or thin trees or other landscaping. In addition, the Declarant, the Association, or an Owner may add trees and other landscaping, and construct improvements, all subject to the Design Guidelines and the approval of the ACC. Any such improvements may diminish or obstruct any view from the Units and any express or implied easements for view purposes or for the passage of light and air are hereby expressly disclaimed.

9.7 Utility Easement: Declarant reserves the right to construct utilities within any Utility Easement, Street right-of-way, or Common Area Parcel which is depicted on the Plat.

9.8 Snow Storage Easement: An easement is reserved within any Snow Removal Easement and within any Common Area which is depicted on the Plat for the placement of snow plowed, blown or otherwise cleared from driveways, streets, or other Common Area. An easement is also reserved on and across all lots in Aspen Ridge Phase III, in all reasonable locations where no Building Improvements, driveways or walkways exist, for the placement of such snow. Additionally, an easement is reserved on and across Parcel A, Parcel B, Parcel C, and Parcels D-1 and D-2, in all reasonable locations where no Building Improvements, driveways, parking or walkways exist, for the placement of such snow.

9.9 Drainage Easement: The Drainage Easements depicted on the Plat are reserved for the Association, for drainage through the parcels upon which easements are depicted. There shall be no improvements constructed in the Drainage Easements, except as follows: a driveway shall be allowed across a Drainage Easement, however a culvert must be used to allow for the continued, unrestricted drainage in the Drainage Easement, the design of which shall be reviewed and approved by the ACC; and, other improvements may be made if the ACC determines, in its discretion, that the proposed improvement allows for the continued, unrestricted drainage in the Drainage Easement.

9.10 Landscape, Maintenance, Repair and Replacement Easement For Condominium Units: The Association shall maintain the exteriors of all Building Improvements and all Landscaping on all Exclusive Common Areas for Condominium Units, as provided at Section 7.3 above. The Association is hereby granted an irrevocable easement on and across each Condominium Unit, during reasonable hours and as necessary for the maintenance, repair or replacement of all landscaping and the exteriors of all Building Improvements located on the Condominium Unit Parcel. Damage to the interior of any part of a Building Improvement resulting from such maintenance, repair, emergency repair, or replacement, shall be an expense of the Association; provided, however, that if such damages result from the negligence of the Owner of the Unit, then such Owner shall be responsible for all of such damages.

9.11 Easements of Access to Condominium Units for Repair, Maintenance, and Emergencies: Some of the Exclusive Common Areas are or may be located within the Units or may be conveniently accessible only through the Units. The Owners of other Units and the Association shall have the irrevocable right, to be exercised by the Association as the Owners' agent, to have access to each Unit and to all Exclusive Common Areas from time to time during such reasonable hours as may be necessary for the maintenance, repair, removal, or

replacement of any of the Common Areas therein or accessible there from or for making emergency repairs therein necessary to prevent damage to the Common Areas or to any Unit. At least two days prior notice shall be given to the Owner of the Unit prior to entering into the Unit, except in the case of emergency where such delay would cause damage to any Unit or Exclusive Common Area. Damage to the interior of any part of a Unit resulting from the maintenance, repair, emergency repair, removal, or replacement of any of the Common Areas or as a result of emergency repair within another Unit at the instance of the Association or of Owners shall be a Benefited Unit Expense, except when such damage is caused by the negligent or willful act or omission of an Owner, their guests or invitees.

9.12 Pond Maintenance Easement: An easement is reserved on and across Common Area I for the City of McCall to access the pond and adjacent wetlands located on Common Area I, in order to fulfill its obligations under the Golf Course Long Term Maintenance and Operation Agreement, recorded with the Valley County, Idaho Recorder as Instrument No. 215999 on January 19, 1996 and as Instrument No 217888 on May 3, 1996. The Board may reasonably restrict access to only those portions of Common Area I necessary for such maintenance.

ARTICLE 10. Townhomes – Ownership and Maintenance of Common Wall – Architectural Control

10.1 Ownership to Center of Common Wall Unit Line: A Common Wall Unit Line is shown on the Plat, between each set of Townhome Units which will share a common wall. The Common Wall Unit Line is intended to run along the center of the common wall of the Townhome Structure and any garage between the two Townhome Units that rest on either side of said Common Wall Unit Line (“Common Wall”). Ownership of a Townhome Unit shall run to the center of the Common Wall.

10.2. Responsibility of the Owner: The Owner at the Owner's expense shall maintain and keep in repair the improvements within the Common Wall which is a part of their Townhome Unit, along with associated Building Improvements, including the fixtures and utilities located in such Townhome Unit to the extent current repair shall be necessary in order to avoid damaging the Building Improvements on the adjoining Townhome Unit. An Owner shall not allow any action or work that will impair the structural soundness of the improvements, impair the proper functioning of the utilities, heating, ventilation, or plumbing systems located within the Common Wall, or integrity of the Building Improvements located on their own Townhome Unit or the adjoining Townhome Unit. An Owner shall not be responsible for repair occasioned by casualty occurring on the adjoining Townhome Unit, unless such casualty is due to the act or negligence of the Owner, or guests, invitees, or tenants of such Owner, as provided in Section 10.4 below. An Owner is responsible for all repair resulting from a casualty occurring within their Townhome Unit.

10.3. Responsibility of the Association: Notwithstanding any provisions to the contrary contained in this Declaration, the Association have no responsibility for any repairs or maintenance of utilities, heating, ventilation, or plumbing systems, or other facilities located inside of a Common Wall.

10.4. Owner's Negligence. In the event that the need for maintenance, repair or replacement of all or any portion of the Common Wall or of any utilities, heating, ventilation, or plumbing systems, or other facilities located inside of a Wall is caused through or by the negligent or willful act or omission of an Owner, or by any member of an Owner's family, or by an Owner's guests, invitees, licensees or tenants, or by the negligent construction of such facilities, then the expenses incurred by the Association for such maintenance, repair or replacement shall be a personal obligation of such Owner. If the Owner fails to repay expenses incurred by the Owner of the adjoining Townhome Unit within thirty (30) days after notice to the Owner of the amount owed, then the Owner of the adjoining Townhome Unit may request that the Association assess such cost against the Owners as a Compliance Assessment as provided in the Bylaws.

10.5 Rights With Respect to Remodeling and Construction: In addition to all requirements of the Phase III Design Guidelines, the Owners of Towhome Units may make no change or alteration to Building Improvements located thereon if such change or alteration affects or impacts the Common Wall, until plans and specifications showing the precise nature of the change or alteration shall have been submitted to and approved in writing by the ACC. Examples of changes or alterations that would be subject to review by the ACC include but are not limited to replacing cabinets that abut the Common Wall, or remodels that would require plumbing or electrical work in the Common Wall. Replacement of existing floor coverings, wall coverings, and other modifications to the interior of the Building Improvements that do not affect the Common Wall, may be undertaken without such approval. All Owners are advised that there may be noise or other disturbance due to such construction activities. Subject to the ACC's discretion and the type of proposed alteration or change, such plans and specifications shall, at

a minimum, include detailed specifications with regard to all work to be completed in, near or affecting the Common Wall and the timeframe for commencement and completion of the work. The ACC may exercise its sole discretion when considering a request under this Section. No improvements shall be commenced until plans for the improvements shall have been approved by the ACC. All improvements shall be constructed only in accordance with approved plans. The ACC shall not be subject to liability in the event that the construction of any alteration negatively affects the Owner of the adjoining Townhome Unit. All such liability shall remain with the Owner performing such construction.

ARTICLE 11. Provisions Specific to Condominium Units

11.1 Maintenance Responsibility:

(a) **Owner's Rights and Duties with Respect to Interiors:** Each Owner shall have the exclusive right and duty to maintain and repair the interior surfaces of the walls, floors, ceilings, and doors forming the boundaries of such Owner's Unit and all walls, floors, ceilings, and doors within such boundaries, including, without limitation painting of interior surfaces. At an Owner's option, an Owner may paint, paper, or otherwise decorate or redecorate the Condominium Unit.

(b) **Responsibility of the Owner:** The Owner at the Owner's expense shall maintain and keep in repair the interior of the Condominium Unit, including the fixtures and utilities located in the Condominium Unit to the extent current repair shall be necessary in order to avoid damaging other Condominium Units or the Exclusive Common Areas. All fixtures, equipment, and utilities installed and included in a Unit commencing at a point where the fixtures, equipment, and utilities enter the Unit shall be maintained and kept in repair by the Owner of that Unit. An Owner shall not allow any action or work that will impair the structural soundness of the improvements, impair the proper functioning of the utilities, heating, ventilation, or plumbing systems or integrity of the Building, or impair any easement or hereditament. An Owner shall not be responsible for repair occasioned by casualty occurring outside a Unit, unless such casualty is due to the act or negligence of the Owner, or guests, invitees, or tenants of such Owner. An Owner is responsible for all repair resulting from a casualty occurring within, or affecting the inside of, a Unit. No Owner shall alter any Exclusive Common Areas without the prior written consent of the Association.

(c) **Responsibility of the Association:** Notwithstanding any provisions to the contrary contained in this Declaration, the Association shall be solely responsible for all repairs and maintenance of all utilities, heating, ventilation, or plumbing systems, or other facilities located inside of a Wall (i.e., a Perimeter Unit Wall, a Perimeter Building Wall, a Demising Wall or an Internal Wall). There is hereby reserved in the Association an exclusive, permanent and perpetual easement for purposes of conducting such maintenance and repairs to all the interior space within all Walls which would otherwise be considered part of a Unit. This easement shall include the right to access such Walls through Units as necessary to perform such maintenance and repairs. Owners shall have the right to access and perform work on any such facilities located inside of Walls only as necessary in case of emergency to prevent damage to their's or others' Units, and only after notifying the Association of the existence of the emergency. The cost of such repairs and maintenance shall be considered a Common Expense of the Association, except in the case of repairs or maintenance resulting from the negligence of an Owner. The Association, without the requirement of approval of the Owners, shall maintain and keep in good repair, replace, and improve, as a Common Expense, all the Condominium Neighborhood not required in this Declaration to be maintained and kept in good repair by an Owner.

11.2 Conveyances and Taxation of Condominium Units :

(a) **Contracts to Convey and Conveyances:** Contracts to convey, instruments of conveyance of Condominium Units, and every other instrument affecting title to a Condominium Unit shall be in substantially the following form with such omissions, insertions, recitals of fact, or other provisions as may be required by the circumstances or appropriate to conform to the requirements of any governmental authority or any usage or requirement of law with respect thereto:

Unit Nos. _____ and G ____ of the Aspen Ridge III Plat, as the same was recorded and platted of record on _____, 200 ____ with the Office of Recorder of Valley County, Idaho, as Instrument No. _____.

(b) Conveyance Deemed to Describe an Undivided Interest in Exclusive Common Areas: Every instrument of conveyance, Mortgage, or other instrument affecting the title to a Condominium Unit which legally describes the Unit substantially in the manner set forth in Section 11.2(a) above shall be construed to describe the Unit, together with the undivided interest in the Exclusive Common Areas appurtenant to it, and together with all fixtures and improvements contained in it (unless any such fixtures or improvements shall be Exclusive Common Areas), and to incorporate all the rights incident to ownership of a Condominium Unit and all the limitations of ownership as described in the covenants, conditions, restrictions, easements, reservations, rights-of-way, and other provisions contained in this Declaration, including the easement of enjoyment to use the Common Areas.

(c) Separate Tax Assessments: Upon the recording of this Declaration and the recording of the Plat of record in Valley County, Idaho, all taxes, assessments, and other charges by the State or any governmental or political subdivision or any special improvement district or any other taxing agent or assessing authority shall be assessed against and collected on each Condominium Unit, each of which shall be carried on the tax records as a separate and distinct parcel for that purpose. For the purpose of such assessment against the Condominium Units, valuation of the Exclusive Common Areas shall be apportioned among the Units in proportion to the fractional interest in the Exclusive Common Areas appurtenant to such Units.

The lien for taxes assessed to the Owner or Owners of a Condominium Unit shall be confined to his Unit and to his appurtenant undivided interest in the Common Areas. No forfeiture or sale of any Condominium Unit for delinquent taxes, assessment, or other governmental charge shall divest or in any way affect the title to any other Condominium Unit.

(d) Reservation and Grant of Right to Amend Plat: Declarant hereby reserves the right to amend the Plat to conform the Plat to the Units, as constructed. By purchase of a Condominium Unit, each Owner hereby designates Declarant as such Owner's attorney in fact for purposes of filing such an amended Plat and specifically grants Declarant the authority to do so on behalf of such Owner, without further consent from or notice to such Owner. Additionally, Declarant shall have the right to amend the plat for any Condominium Neighborhood prior to the closing of the sale of any Units in the Neighborhood.

11.3 Insurance: It is recognized and acknowledged by each person who purchases a Condominium Unit that the availability of various insurance coverages fluctuates and changes over time, as does the cost of such coverages. As such, the Board and Declarant shall not be liable for failure to obtain any coverage required by this Section or for any loss or damage resulting from such failure if such failure is due to the unavailability of such coverage from reputable insurance companies, or if such coverage is available only at a cost which, in the Board's reasonable discretion, is unreasonable.

(a) Property Damage Insurance: The Board shall obtain and maintain in full force and effect property damage insurance on all insurable improvements located on or constituting part of each Condominium Neighborhood (including, without limitation, the Exclusive Common Areas and the Units, together with, unless the Board directs otherwise, the fixtures, equipment and other personal property initially installed in the Units and replacements thereof up to the value of those initially installed by Declarant, but not including furniture, wall coverings, improvements, additions or other personal property supplied or installed by Owners), together with all fixtures, building service equipment and common personal property and supplies of the Association, and heating equipment and other service machinery contained therein and covering the interests of the Owners and their Mortgagees, as their interests may appear. The insurance shall be carried in an amount equal to full replacement value (i.e., 100% of the current "replacement cost" exclusive of land, foundation, excavation, depreciation on personal property and other items normally excluded from coverage), and shall include a replacement cost endorsement and an agreed amount endorsement waiving the requirement of coinsurance.

(b) Other Insurance: The Association may obtain insurance against such other insurable risks of a similar or dissimilar nature as it deems appropriate with respect to the Association's responsibilities and duties.

(c) Notice to Owners: The Board shall initially furnish Owners with notice of the insurance coverage which is in effect for the Condominium Neighborhood. Thereafter, the Board shall promptly furnish to each Owner written notice of materially adverse changes in, cancellation or termination of, insurance coverage obtained on behalf of the Association under this Section, such notice to be delivered to

all Owners by such methods as required by the Association Documents. The notice (which may be issued in the form of a subpolicy relating to a master policy, if the Board obtains a master policy), shall specify the insurance coverage in effect on the Owner's Condominium Unit.

(d) Insurance Obtained by Owners: It shall be the responsibility of each Owner, at such Owner's expense, to maintain property damage insurance on such Owner's personal property and furnishings and public liability insurance covering such Owner's Unit. In addition, an Owner may obtain such other and additional insurance coverage on and in relation to the Owner's Condominium Unit as the Owner, in the Owner's sole discretion, shall conclude to be desirable. However, no such insurance coverage obtained by the Owner shall operate to decrease the amount which the Board, on behalf of all Owners, may realize under any policy maintained by the Board or otherwise affect any insurance coverage obtained by the Association or cause the diminution or termination of that insurance coverage. An Owner shall be liable to the Association for the amount of any such diminution of insurance proceeds to the Association resulting from insurance coverage maintained by the Owner, and the Association shall be entitled to collect the amount of the diminution from the Owner as if the amount were a Compliance Assessment, with the understanding that, in addition to any other remedies available to the Association hereunder and in the Bylaws for the collection of fees and assessments, the Association may impose and foreclose a lien for the payment due. Any insurance obtained by an Owner shall include a provision waiving the particular insurance company's right of subrogation against the Association and other Owners, including Declarant, should Declarant be the Owner of any Condominium Unit.

The Board may require an Owner who purchases additional insurance coverage for the Owner's Condominium Unit (other than coverage for the Owner's personal property) to file copies of such policies with the Association within thirty (30) days after purchase of the coverage to eliminate potential conflicts with any master policy carried by the Association.

(e) Allocation of Insurance Costs: All costs associated with insurance associated with the Condominium Neighborhoods shall be assessed as a Benefited Unit Assessment pursuant to the Bylaws.

11.4 Association as Attorney-In-Fact : Each Owner hereby irrevocably appoints the Association as the Owner's true and lawful attorney-in-fact in such Owner's name, place and stead for the purposes of dealing with a Condominium Neighborhood upon its damage or destruction as provided in Section 11.5, or a complete or partial taking as provided in Section 11.7 below. In addition, the Association, or any insurance trustee or substitute insurance trustee designated by the Association, is hereby appointed as attorney-in-fact under this Supplemental Declaration for the purpose of purchasing and maintaining insurance under Section 11.3 above and to represent the Owners in any condemnation proceeding under Section 11.7 below including: the collection and appropriate disposition of the proceeds of such insurance or any condemnation award; the negotiation of losses and the execution of releases of liability; the execution of all documents; and the performance of all other acts necessary to accomplish such purpose. The Association, or any insurance trustee, shall hold or otherwise properly dispose of any insurance proceeds in trust for the Owners and their Mortgagees, as their interests may appear. Acceptance by a grantee of a deed or other instrument of conveyance from Declarant or any other Owner conveying any portion of the Affected Property shall constitute appointment of the Association as the grantee's attorney-in-fact, and the Association shall have full authorization, right, and power to make, execute, and deliver any contract, assignment, deed, waiver, or other instrument with respect to the interest of any Owner which may be necessary to exercise the powers granted to the Association as attorney-in-fact.

11.5 Damage or Destruction :

(a) The Role of the Board: Except as provided in Section 11.5(f), in the event of damage to or destruction of all or part of any Condominium Unit, Exclusive Common Areas, or other property covered by insurance written in the name of the Association under Section 11.3, the Board shall arrange for and supervise the prompt repair and restoration of the damaged areas of the Condominium Neighborhood, including, without limitation, the floor coverings, fixtures, and appliances initially installed therein by Declarant, and replacement thereof installed by the Owners up to the value of those initially installed by Declarant, but not including any furniture, furnishings, fixtures, equipment, or other personal property supplied or installed by the Owners in the Condominium Units unless covered by insurance obtained by the Association. Notwithstanding the foregoing, each Owner shall have the right to supervise the redecorating of his Unit.

(b) **Estimate of Damage or Destruction:** As soon as practicable after an event causing damage to or destruction of any part of the Condominium Neighborhood, unless such damage or destruction shall be minor, the Board shall obtain an estimate or estimates that it deems reliable and complete of the costs of repair and reconstruction of that part of the Condominium Neighborhood damaged or destroyed. "Repair and reconstruction" as used in this Section 11.5 shall mean restoring the damaged or destroyed part of the Condominium Neighborhood to substantially the same condition in which it existed immediately prior to the damage or destruction, with each Unit and the Exclusive Common Areas having substantially the same vertical and horizontal boundaries as before.

(c) **Repair and Reconstruction:** As soon as practical after the damage occurs and any required estimates have been obtained, the Association shall diligently pursue to completion the repair and reconstruction of that part of the Condominium Neighborhood damaged or destroyed. As attorney-in-fact for the Owners, the Association may take any and all necessary or appropriate action to effect repair and reconstruction, and no consent or other action by any Owner shall be necessary. Assessments of the Association shall not be abated during the period of insurance adjustments and repair and reconstruction.

(d) **Funds for Repair and Reconstruction:** Subject to the provisions of Section 11.5(f) below, the proceeds received by the Association from any hazard insurance carried by the Association shall be used for the purpose of repair and reconstruction. If the proceeds of the Association's insurance are insufficient to pay the estimated or actual cost of such repair and reconstruction, the Association may, according to the provisions of the Bylaws, levy, assess, and collect in advance from the Owners a Special Assessment sufficient to provide funds to pay such estimated or actual costs of repair and reconstruction.

(e) **Disbursement of Funds for Repair and Reconstruction:** The insurance proceeds held by the Association and the amounts received from the Special Assessments provided for above, constitute a fund for the payment of the costs of repair and reconstruction after casualty. Such fund shall be applied by the Association as attorney-in-fact for such reconstruction, and the improvements shall be promptly repaired and reconstructed. The Association shall have full authority, right, and power, as attorney-in-fact to cause the repair and restoration of the improvements. It shall be deemed that the first money disbursed in payment for the costs of repair and reconstruction shall be made from insurance proceeds, and the balance from the Special Assessments. If there is a balance remaining after payment of all costs of such repair and reconstruction, such balance shall be distributed to the Owners in proportion to the contributions each Owner made as Special Assessments, or if no Special Assessments were made, then in proportionate shares on the basis of the allocation to the Owners of the expense, as provided herein and in the Bylaws, first to the Mortgagees and then to the Owners, as their interests appear.

(f) **Decision Not to Rebuild:** Any portion of a Condominium Neighborhood for which insurance is required pursuant to the provisions of this Supplemental Declaration which is damaged or destroyed must be repaired or replaced promptly by the Association unless:

(i) The project is terminated pursuant to Section 11.6 below;

(ii) Repair or replacement would be illegal under any state or local statute or ordinance governing health or safety;

(iii) Owners representing at least 80% of votes in the Association, including the vote of every Owner of a Condominium Unit or Exclusive Common Area that will not be rebuilt and including, prior to the Conversion Date, as well as the Declarant, as well as at least 51% of Eligible Mortgage Holders (based on one vote for each Mortgage owned), vote not to repair and reconstruct the Condominium Neighborhood; or

(iv) Prior to the conveyance of a Unit to a person other than the Declarant, the holder of a deed of trust or mortgage on the damaged portion of the Condominium Neighborhood rightfully demands all or a substantial part of the insurance proceeds.

If the entire Condominium Neighborhood is not repaired or replaced, the insurance proceeds attributable to the damaged Exclusive Common Areas must be used to restore the damaged area to a condition compatible with the remainder of the Condominium Neighborhood, and, except to the extent that other persons will be distributees, the insurance proceeds attributable to Units and Exclusive Common Areas that are not rebuilt must be distributed to the Owners of those Units and the Owners of the Units to which those Exclusive Common Areas were allocated, or to lienholders, as their interests may appear, and

the remainder of the proceeds must be distributed to all the Unit Owners or lienholders, as their interests may appear, in proportion to the Exclusive Common Areas interests of all the Units in the Neighborhood, as set forth herein.

(g) **Repairs:** All repairs and reconstruction contemplated by this Section 11.5 shall be performed substantially in accordance with this Supplemental Declaration, the Plat, and the original plans and specifications for the Condominium Neighborhood, unless other action is approved by the Association in accordance with the requirements of this Supplemental Declaration and the other Association Documents.

(h) **Notice of Damage or Destruction to First Mortgagees:** In the event that any portion of the Condominium Neighborhood encompassing more than one Unit is substantially damaged or destroyed by fire or other casualty, then written notice of the damage or destruction shall be given by the Association to each Owner and First Mortgagee of the affected Units within a reasonable time following the event of casualty damage.

11.6 Termination of a Condominium Neighborhood

(a) **Adoption of Termination Agreement:** Except in the case of a taking of all of the Units by eminent domain, a Condominium Neighborhood and this Supplemental Declaration with regard thereto may be terminated by the agreement of 67% of the total votes eligible to be cast in the Condominium Neighborhood, as well as at least 67% of the First Mortgagees (based on one vote for each First Mortgage owned) of record at the time of the adoption of such plan. The approval of a First Mortgagee will be assumed when an Eligible Mortgage Holder fails to submit a written response to the proposed termination within fifteen (15) days after it receives proper notice of the proposal, provided the notice was delivered by certified or registered mail, with a "return receipt" requested. The agreement of Owners to terminate must be evidenced by their execution of a termination agreement or ratifications thereof in the same manner as a deed, by the requisite number of Owners. The termination agreement must specify a date after which the agreement will be void unless it is recorded before that date. The termination agreement and all ratifications thereof must be recorded in Valley County, Idaho and is effective only upon recordation.

(b) **Sale of the Property:** The termination agreement may provide that all of the Exclusive Common Areas and Units of the Condominium Neighborhood must be sold following termination. If, pursuant to the agreement, any real estate in the Condominium Neighborhood is to be sold following termination, the termination agreement must set forth the minimum terms of sale. Subject to the provisions of the termination agreement, the Association, on behalf of the Owners, may contract for the sale of real estate in the Condominium Neighborhood following termination, but the contract is not binding on the Owners until approved pursuant to Section 11.6(a) above. If any real estate is to be sold following termination, title to that real estate, upon termination, vests in the Association as trustee for the holders of all interests in the Units. Thereafter, the Association has all the powers necessary and appropriate to effect the sale. Until the sale has been concluded and the proceeds thereof distributed, the Association continues in existence with all the powers it had before termination. Proceeds of the sale must be distributed to Owners and lienholders as their interests may appear in accordance with Section 11.6(d) below, taking into account the value of property owned or distributed that is not sold so as to preserve the proportionate interests of each Owner with respect to all property cumulatively. Following termination of the Condominium Neighborhood, the proceeds of any sale of the Condominium Neighborhood, together with the assets of the Association, are held by the Association as trustee for the Owners and holders of liens on the Units as their interests may appear. Creditors of the Association who obtain a lien and duly record it in Valley County, Idaho, are to be treated as if they had perfected liens on the Units immediately before termination or when the lien is obtained and recorded, whichever is later. Unless otherwise specified in the termination agreement, as long as the Association holds title to the Condominium Neighborhood, each Owner and the Owner's successors in interest have an exclusive right to occupancy of the portion of the Condominium Neighborhood that formerly constituted the Unit. During the period of that occupancy, each Owner and the Owner's successors in interest remain liable for all Assessments and other obligations imposed on Owners by the Declaration.

(c) **Status of Property Not Sold:** Title to the Units not to be sold following termination vests in the Owners upon termination as tenants in common in fractional interests that maintain, after taking into account the fair market value of property owned and the proceeds of property sold, their respective interests as provided in Section 11.6(d) below with respect to all property appraised under Section 11.6(d)

below, and liens on the Units shift accordingly. While the tenancy in common exists, each Owner and the Owner's successors in interest have an exclusive right to occupancy of the portion of the real estate that formerly constituted such Unit.

(d) Interests of the Owners: The respective interests of the Owners are as follows:

(i) Except as provided in Subsection (ii) below, the respective interests of Owners are the combined fair market values of their Units, allocated interests, and Exclusive Common Areas, immediately before the termination, as determined by one or more independent appraisers selected by the Association. The decision of the independent appraisers shall be distributed to the Owners and becomes final unless disapproved within thirty (30) days after distribution by Owners of Units to which 33% of the votes in the Association are allocated. The proportion of any Owner's interest to that of all Owners is determined by dividing the fair market value of that Owner's Unit and its allocated interests by the total fair market values of all the Units and their allocated interests.

(ii) If any Unit or any Exclusive Common Areas is destroyed to the extent that an appraisal of the fair market value thereof prior to destruction cannot be made, the interests of all Unit Owners are their respective Common Area interests immediately before the termination.

11.7 Condemnation

(a) Consequences of Condemnation: If, at any time or times during the continuance of a Condominium Neighborhood pursuant to this Supplemental Declaration, all or any part of the Condominium Neighborhood shall be taken or condemned by any public authority or sold or otherwise disposed of in lieu or in avoidance of condemnation, then all compensation, damages, or other proceeds of condemnation, the sum of which is referred to as the "condemnation award" below, shall be payable to the Association, and the provisions of this Section 11.7 shall apply.

(b) Complete Taking: In the event that an entire Condominium Neighborhood is taken or condemned or sold or otherwise disposed of in lieu or in avoidance of condemnation, the condominium ownership for that Neighborhood pursuant to this Supplemental Declaration shall terminate. The condemnation award shall be paid to the Association for the use and benefit of the Owners and the Mortgagees as their interests may appear. Such award shall be apportioned among the Owners and the Mortgagees on the basis of the undivided interest in the Exclusive Common Areas appurtenant to the Unit in which such Owners and Mortgagees have an interest; provided, however, that if a standard different from the value of the Condominium Neighborhood as a whole is employed to measure the condemnation award in the negotiation, judicial decree, or otherwise, then in determining such apportionment the same standard shall be employed. The Association shall, as soon as practical, determine the share of the condemnation award to which each Owner and Mortgagee is entitled in accordance with each Owner's allocated interest in the Exclusive Common Areas, and such shares shall be paid first to the Mortgagees and then to the Owners, as their interests appear.

(c) Partial Taking: Except as the Owners may otherwise agree pursuant to Section 11.6 above, in the event that less than the entire Condominium Neighborhood is taken or condemned or sold or otherwise disposed of in lieu or in avoidance of condemnation, the condominium ownership under this Supplemental Declaration shall not terminate. Each Owner (and Mortgagee holding an interest in such Owner's Unit) shall be entitled to a share of the condemnation award to be determined under the following provisions. The condemnation award shall be paid to the Association for the use and benefit of the Owners and the Mortgagees as their interests may appear. As soon as practical, the Association shall reasonably and in good faith allocate the condemnation award between compensation, damages, or other proceeds, and shall apportion the amounts so allocated among the Owners, as follows:

(i) Subject to Subsection (iii) below, the total amount allocated to a taking of or injury to the Exclusive Common Areas shall be apportioned among Owners and their Mortgagees on the basis of each Owner's undivided interest in the Exclusive Common Areas; and,

(ii) The total amount allocated to severance damages shall be apportioned to the Owners and Mortgagees of those Condominium Units which were not taken or condemned; and,

(iii) The respective amounts allocated to the taking of or injury to a particular Condominium Unit or to improvements an Owner has made within the Owner's own

Condominium Unit (including compensation to the Owner for the Unit and its allocated interest in the Common Areas whether or not the Common Areas are acquired) shall be apportioned to the Owner and Mortgagees of that particular Condominium Unit involved; and,

(iv) The total amount allocated to consequential damages and any other takings or injuries shall be apportioned as the Association determines to be equitable under the circumstances. If an allocation of the condemnation award is already established in negotiation, judicial decree, or otherwise, then in allocating the condemnation award the Association shall employ such allocation. Distribution of apportioned proceeds shall be made by checks payable jointly to the respective Owners and their respective Mortgagees.

(d) **Reorganization:** In the event a partial taking results in the taking of a Unit, the Owners thereof shall automatically cease to be members of the Association, and their ownership interests in the Exclusive Common Areas shall terminate and vest in the Owners of the remaining Condominium Units in the Neighborhood. Thereafter, the Association shall reallocate the ownership, voting rights, and Assessment ratios determined in accordance with this Supplemental Declaration, according to the same principles employed in this Supplemental Declaration at its inception and the Board of the Association shall amend this Supplemental Declaration accordingly.

(e) **Repair and Reconstruction:** Any repair and reconstruction necessitated by condemnation shall be governed by the procedures contained in Section 11.6 above.

(f) **Notice of Condemnation:** In the event that any portion of a Condominium Neighborhood shall be made the subject matter of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority, then timely written notice of such condemnation shall be given by the Association to each Owner and First Mortgagee.

ARTICLE 12. Declarant's Development Rights, Special Rights and Reservations

12.1 Declarant's Rights and Reservations: In addition to those easements and rights reserved by Declarant in Article 9 above, and as otherwise provided in this Declaration, Declarant shall have, retain and reserve certain rights as hereinafter set forth with respect to the Association and Aspen Ridge Phase III. The rights and reservations reserved above and hereinafter set forth shall be deemed accepted and reserved in each conveyance of any Unit or other property within Aspen Ridge Phase III by Declarant, whether or not specifically stated therein, and in each deed or other instrument by which any property within Aspen Ridge Phase III is conveyed by Declarant. The rights, reservations and easements reserved above and hereinafter set forth shall be prior and superior to any other provisions of the Association Documents and may not, without Declarant's written consent, be modified, amended or rescinded or affected by any amendment of the Association Documents. Declarant's consent to any one such amendment shall not be construed as a consent to any other amendment.

12.2 Declarant's Future Development Rights: Declarant, and Declarant's assigns, shall have the following development rights, which rights shall not require the consent of Owners before Declarant's exercise of such rights:

(a) Declarant may further develop Aspen Ridge Phase III; and, may further divide any Unit or adjust lot lines between Units prior to sale of such Unit(s), subject to approval from the City.

(b) Until the Conversion Date, the Declarant may designate and transfer ownership of sites within Aspen Ridge Phase III for fire, police, utility facilities, public parks, and other public facilities. The sites may include Common Area Spaces.

(c) Until the Conversion Date, Declarant, or Declarant's designee or permittee shall have the right to store construction materials and maintain construction offices within Common Areas; and, shall have the right to locate and operate sales offices within Common Areas, and on unsold properties.

(d) Until the Conversion Date, Declarant or Declarant's designee shall have the right to install utilities and utility related equipment and fixtures within any utility easement, street, street right of way, or Common Area, and to grant easements for the maintenance and repair of the same.

12.3 Successor Declarant: For purposes of the rights, reservations and easements reserved and created in favor of Declarant herein, Declarant shall have the option of notifying the Association in writing of an assignee or successor who will hold and exercise Declarant's aforesaid rights and whom the Association shall notify as required by this Declaration, the successor or assignee must own at least one Unit in Aspen Ridge Phase III. The special

rights and obligations of the Declarant set forth in this Declaration or the Bylaws may be transferred to other Persons in whole or in part, provided that the transfer shall not reduce an obligation nor enlarge a right beyond that contained in this Declaration or the Bylaws. Absent such transfer, Mountain West Developers, Inc. shall retain the Declarant rights described herein until the Conversion Date.

In the event that Mountain West Developers, Inc. is dissolved prior to the Conversion Date, and fails to notify the Association of a successor for these purposes, then the person(s) holding a majority interest in Mountain West Developers, Inc. at the time of its dissolution shall be deemed the successor to Declarant for these purposes.

12.4 Exemption of Declarant: Nothing contained herein shall limit the right of Declarant to excavate, grade and construct improvements to and on any portion of Aspen Ridge Phase III owned by Declarant, in furtherance of the terms of any applicable Permits. Declarant need not seek or obtain Board or ACC approval of any such improvements constructed or placed by Declarant on any portion of Aspen Ridge Phase III owned by Declarant or an affiliate of Declarant. The rights of Declarant hereunder may be assigned by Declarant to any successor in interest in connection with Declarant's interest in any portion of Aspen Ridge Phase III by an express written assignment.

12.5 Exclusive Rights to Use Name of Development: No person shall use the name "Aspen Ridge Phase III" or any derivative of such name or in logo or depiction in any printed or promotional material without Declarant's prior written consent. However, Owners may use the name "Aspen Ridge Phase III" in printed or promotional matter where such term is used solely to specify that the particular property is located within Aspen Ridge Phase III and the Association shall be entitled to use the words "Aspen Ridge Phase III" in its name.

12.6 Declarant's Approval: None of the rights, reservations, or easements granted to or reserved by Declarant herein may ever be modified or amended without the prior written consent of Declarant or Declarant's successor, which consent may be withheld by Declarant for any reason whatsoever. Additionally, until the Conversion Date, the Association shall not, without first obtaining the prior written consent of the Declarant, which consent shall not be unreasonably withheld: make any amendment or repeal of any other provision of this Declaration (i.e. a provision not involving any of the rights, reservations or easements granted to or reserved by Declarant); make any amendment to any other Association Documents; make any amendment to the Design Guidelines; make any new declaration or guidelines or similar instrument; or promulgate, change or repeal any rules of the Association. Any attempt to do so without such consent shall result in such instrument being void and of no force and effect unless subsequently approved in writing by the Declarant. Declarant may extinguish any of the aforesaid rights by giving written notice thereof to the Association.

ARTICLE 13. Streets

13.1 Private Streets, Maintenance and Ownership: All streets, roads and drives within Aspen Ridge Phase III shall be private unless dedicated to the City or other governmental entity, in whole or in part, by a written declaration by Declarant or the Association and accepted by the City or other governmental entity. Neither the City of McCall nor any other governmental entity shall have responsibility for the maintenance, repair or upkeep of any of such streets unless, and to the extent, such responsibility is accepted in writing in whole or in part by the City of McCall or other governmental entity. Declarant shall complete the construction of such streets to the standards depicted in the documents submitted to and approved by the City of McCall. The said streets shall be transferred by Declarant to the Association after completion. Thereafter, the Association shall be solely responsible for the maintenance, repair and upkeep of such streets, which shall be part of its Property Maintenance Function. All such streets shall be dedicated to the use of the Association, the Owners, their guests and invitees. Declarant shall reserve rights in such streets, as part of the conveyance, and as necessary to implement the development of Aspen Ridge Phase III, and as are provided for hereinabove. Gates are not permitted to block the vehicular or pedestrian access of any public or private street.

13.2 Access for Emergency Services and Maintenance Requirements: The police, fire, ambulance and other emergency services shall have full access to private streets depicted on the Final Plat exactly as if they were public streets. The Association shall maintain a full twenty foot (20') width free of accumulations of snow and free of parked vehicles; and in the event of the failure of the Association to comply timely such requirement, the City of McCall may clear snow and tow parked vehicles either with its own crews and equipment, or with specially hired crews and equipment and charge the Association for the cost thereof.

ARTICLE 14. Sewer and Water

Aspen Ridge Phase III will be serviced by the City of McCall central water and sewer systems for both water and sewer facilities. Owners will be obligated to connect to such systems, pursuant to the rules and regulations of the City of McCall.

ARTICLE 15. Certain Rights of Declarant and Owners

15.1 Reserved Rights with Respect to Property Furnished by Declarant: Whether or not expressed at the time, all Property Furnished by Declarant shall be deemed accepted by the Association and shall at all times remain subject to: existing or future easements for utilities, including gas, electricity, water, sewer, telephone, television or other utility services, and for intercommunication, alarm or other similar systems; existing easements for parking purposes; existing easements for ingress, egress and access for the benefit of other property in the vicinity of Aspen Ridge Phase III, and easements as provided in Section 15.3.

15.2 No Sale or Abandonment of Property Furnished by Declarant: No Property Furnished by Declarant may be sold, conveyed, encumbered, leased, transferred, abandoned or otherwise disposed of without the prior written consent of Declarant. No improvements which may be included in Property Furnished by Declarant may be destroyed, permitted to deteriorate or waste, or disposed of by the Association without the prior written consent of Declarant until the Conversion Date.

15.3 Easements of Owners with Respect to Association Facilities: Each Owner and Guest shall have a non-exclusive easement over, upon, across and with respect to any Association Facilities as appropriate and necessary for: access, ingress and egress to the Unit of such Owner or Guest; encroachment by improvements caused by the settling, rising or shifting of earth; and horizontal and lateral support of improvements; subject, however, in the case of easements for access, ingress and egress, to such reasonable and uniformly applied rules and regulations as the Association may impose to assure reasonable use and enjoyment of Association Facilities by all persons entitled to such use and enjoyment.

15.4 Owner's Enjoyment of Functions and Association Facilities: Each Owner and Guest shall be entitled to use and enjoy any Association Facilities suitable for general use or the services provided by any Functions, subject to such reasonable rules and regulations which the Association may adopt.

15.5 Owner's Rights and Obligations Appurtenant: All rights, easements and obligations of an Owner under this Declaration and all rights of an Owner with respect to membership in the Association under this Declaration are hereby declared to be and shall be appurtenant to the title to the Unit owned by such Owner and may not be transferred, conveyed, devised, bequeathed, encumbered or otherwise disposed of separate or apart from fee simple title to such Owner's Unit. Every transfer, conveyance, grant, devise, bequest, encumbrance or other disposition of a Unit shall be deemed to constitute a conveyance, grant, devise, bequest, encumbrance or transfer or disposition of such rights and obligations.

15.6 Owner's Right to Convert Townhome Units and Condominium Units to Bungalow Units, and to Combine Bungalow Units:

(a) **Townhome Units:** A Common Wall Unit Line is shown on the Plat, between each set of Townhome Units which will share a common wall. The Owner of both of such adjoining Townhome Units may combine the two adjoining Townhome Units into a single Bungalow Unit as follows:

(i) The Owner of the Townhome Units shall comply with the requirements of the City of McCall, which may include a Record of Survey.

(ii) A "Conversion Document" shall be signed by the Owner of the Townhome Units, which Conversion Document shall include the following: (i) the title "Aspen Ridge Phase III Conversion of Townhome Units to a Bungalow Unit" or something similar thereto; and, (ii) the legal description of both of the adjoining Townhome Units; and, (iii) the name of the Owner of the Townhome Units; and, (iv) a statement the Owner is converting both Townhome Units to a single Bungalow Unit pursuant to Section 15.6 of the Supplemental Declaration for Aspen Ridge Phase III; and, (v) the signature of the Owner of the Townhome Units before a Notary Public.

(iii) The Conversion Document shall be recorded with the Valley County, Idaho Recorder.

The conversion of two Townhome Units to a single Bungalow Unit shall become effective upon the first to occur of: (1) the recording a Record of Survey or such other documentation as may be required by the City of McCall with the Valley County, Idaho Recorder; or, (2) if the City of McCall does not require the recording of any document to effectuate the conversion, the recording of the Conversion Document with the Valley County, Idaho Recorder. Upon such conversion, the Combined Townhome Units shall be treated in all respects as a single Bungalow Unit under the Aspen Ridge Phase III Association Documents.

(b) Condominium Units: A site plan and floor plans are included in the Plat for each of the groups of Condominium Units. The Owner of any Parcel upon which one of the three groups of Condominium Units is platted, i.e. Parcel B, Parcel C, or Parcels D-1 and D-2, may convert the Condominium Units to one or more Bungalow Units as follows:

(i) The Owner of the Parcel shall comply with the requirements of the City of McCall, which may include a re-plat of the Parcel. If the Owner intends to create more than one Bungalow Unit, a plat with the desired number of units must be approved by the City of McCall.

(ii) The Owner of the Parcel shall obtain the written consent of Declarant until the Conversion Date.

(iii) A "Conversion Document" shall be signed by the Owner of the Parcel, which Conversion Document shall include the following: (i) the title "Aspen Ridge Phase III Conversion of Condominium Units to Bungalow Unit" or something similar thereto; and, (ii) the legal description of the Parcel; and, (iii) the name of the Owner of the Parcel; and, (iv) a statement the Owner is converting the Condominium Units to Bungalow Units pursuant to Section 15.6 of the Supplemental Declaration for Aspen Ridge Phase III; and, (v) the number of resulting Bungalow Units; and, (vi) the signature of the Owner of the Parcel before a Notary Public.

(iv) The Conversion Document shall be recorded with the Valley County, Idaho Recorder.

The conversion of the Condominium Units to the specified number of Bungalow Units shall become effective upon the first to occur of: (1) the recording a Plat or such other documentation as may be required by the City of McCall with the Valley County, Idaho Recorder; or, (2) if the City of McCall does not require the recording of any document to effectuate the conversion, the recording of the Conversion Document with the Valley County, Idaho Recorder. Upon such conversion, the Converted Condominium Units shall be treated in all respects as Bungalow Units under the Aspen Ridge Phase III Association Documents.

(c) Bungalow Units: The Owner of two adjoining Bungalow Units may combine the two adjoining Bungalow Units into a single Bungalow Unit as follows:

(i) The Owner of the Bungalow Units shall comply with the requirements of the City of McCall, which may include a Record of Survey.

(ii) A "Conversion Document" shall be signed by the Owner of the Bungalow Units, which Conversion Document shall include the following: (i) the title "Aspen Ridge Phase III Conversion of Two Bungalow Units to a Single Bungalow Unit" or something similar thereto; and, (ii) the legal description of both of the adjoining Bungalow Units; and, (iii) the name of the Owner of the Bungalow Units; and, (iv) a statement the Owner is converting the two Bungalow Units to a single Bungalow Unit pursuant to Section 15.6 of the Supplemental Declaration for Aspen Ridge Phase III; and, (v) the signature of the Owner of the Bungalow Units before a Notary Public.

(iii) The Conversion Document shall be recorded with the Valley County, Idaho Recorder.

The conversion of two Bungalow Units to a single Bungalow Unit shall become effective upon the first to occur of: (1) the recording a Record of Survey or such other documentation as may be required by the City of McCall with the Valley County, Idaho Recorder; or, (2) if the City of McCall does not require the recording of any document to effectuate the conversion, the recording of the Conversion Document

with the Valley County, Idaho Recorder. Upon such conversion, the Combined Bungalow Units shall be treated in all respects as a single Bungalow Unit under the Aspen Ridge Phase III Association Documents.

(d) Declarant shall have the right to convert Townhome Units and Condominium Units, and to combine Bungalow Units, in the same manner as specified above in this Section 15.6.

ARTICLE 16. Dispute Resolution and Limitation on Litigation

16.1 Agreement to Encourage Resolution of Disputes Without Litigation.

(a) Declarant, the Association and its officers, directors, all Classes of Members, and any Person not otherwise subject to this Declaration who agrees to submit to this Article (collectively, "Bound Parties"), agree that it is in the best interest of all concerned to encourage the amicable resolution of disputes involving Aspen Ridge Phase III without the emotional and financial costs of litigation. Accordingly, each Bound Party agrees not to file suit in any court with respect to a Claim described in subsection (b) unless and until it has first submitted such Claim to the alternative dispute resolution procedures set forth in Section 16.2 in a good faith effort to resolve such Claim.

(b) As used in this Article, the term "Claim" shall refer to any claim, tort claim, grievance or dispute arising out of or relating to:

- (i) the interpretation, application or enforcement of the Association Documents;
- (ii) the rights, obligations, and duties of any Bound Party under the Association Documents; or,
- (iii) the decisions of the ACC;

(c) The following shall not be considered "Claims" unless all parties to the matter otherwise agree to submit the matter to the procedures set forth in Section 16.2:

- (i) any suit by the Association to collect Assessments or other amounts due from any Owner;
- (ii) any suit by the Association to obtain a temporary restraining order and such ancillary relief as the court may deem necessary in order to maintain the status quo and preserve the Association's ability to enforce the provisions of Design Guidelines, or any of the Association Documents;
- (iii) any suit between Owners, which does not include Declarant or the Association as a party, if such suit asserts a Claim which would constitute a cause of action independent of the Association Documents;
- (iv) any suit in which any indispensable party is not a Bound Party;
- (v) any suit as to which any applicable statute of limitations would expire within 180 days of giving the Notice required by Section 16.2(a), unless the party or parties against whom the Claim is made agree to toll the statute of limitations as to such Claim for such period as may reasonably be necessary to comply with this Article; and,
- (vi) any suit by the Association to enjoin a continuing violation of or to enforce the provisions of the Design Guidelines or any other Association Document.

16.2 Dispute Resolution Procedures:

(a) Notice. The Bound Party asserting a Claim ("Claimant") against another Bound Party ("Respondent") shall give written notice to each Respondent and to the Board stating plainly and concisely:

- (i) the nature of the Claim, including the person involved and the Respondent's role in the Claim;
- (ii) the legal basis of the Claim (i.e. the specific authority out of which the Claim arises);
- (iii) the Claimant's proposed resolution or remedy; and,

(iv) the Claimant's desire to meet with the Respondent to discuss in good faith ways to resolve the Claim.

(b) **Negotiation.** The Claimant and Respondent shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation. If requested in writing, accompanied by a copy of the Notice, the Board may appoint a representative to assist the parties in negotiating a resolution of the Claim.

(c) **Mediation.** If the parties have not resolved the Claim through negotiation within 30 days after the date of the Notice (or within such other time period as the parties may mutually agree upon), the Claimant shall have 45 additional days to submit the Claim to mediation with an entity designated by the Association (if the Association is not a party to the Claim) or to a mutually acceptable individual providing dispute resolution services in Idaho.

If the Claimant does not submit the Claim to mediation within such time, or does not appear for the mediation when scheduled, the Claimant shall be deemed to have waived the Claim, and the Respondent shall be relieved of any and all liability to the Claimant (but not third parties) on account of such Claim.

If the Parties do not settle the Claim in mediation, the mediator shall issue a notice of termination of the mediation proceedings indicating that the parties are at an impasse and the date that mediation was terminated. The Claimant shall thereafter be entitled to file suit.

Each party shall bear its own costs of the mediation, including attorney's fees, and each Party shall share equally all fees charged by the mediator.

(d) **Settlement.** Any settlement of the Claim through negotiation or mediation shall be documented in writing and signed by the parties. If any party thereafter fails to abide by the terms of such agreement, the other party may file suit or initiate administrative proceedings to enforce such agreement without the need to again comply with the procedures set for this in this Section. In such event the party taking action to enforce the agreement or award shall, upon prevailing, be entitled to recover for the non-complying party (or if more than one non-complying party, from all such parties) all costs incurred in enforcing such agreement or award, including, without limitation, attorneys' fees and court costs.

ARTICLE 17. Miscellaneous

17.1 Duration of Declaration: This Declaration shall run with and bind all property within Aspen Ridge Phase III, and shall inure to the benefit of and shall be enforceable by the Association or any Owner, their respective legal representatives, heirs, successors, and assigns, for a term of 50 years from the date this Declaration is recorded. After such time, this Declaration shall be automatically extended for successive periods of 10 years, unless an instrument in writing, signed by the Declarant and the Association, upon the affirmative vote of said Class B Member, and 90% of the Class A Members, is recorded, agreeing to terminate this Declaration, in which case this Declaration shall be terminated as specified therein. Declarant's vote and signature are not required, however, after the Conversion Date.

17.2 Amendment:

(a) **By the Board:** Except as limited or committed to action by the members, either by the Articles, the Bylaws, or this Declaration, the Board shall have the power to amend the Declaration at any regular meeting of the Board or at any special meeting called for that purpose at which a quorum is represented. However, if the members shall amend any portion of the Declaration, the directors shall not thereafter amend the same in such manner as to defeat or impair the object of the members in taking such action. Any amendment to the Declaration approved by the Board shall have no material adverse effect upon any right of any Owner or member.

(b) **By Owners:** This Declaration may also be amended upon the Affirmative Vote of the Majority, by the recording of a written instrument or instruments specifying the amendment or the repeal.

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

(c) **Validity and Effective Date of Amendments:** Amendments to this Declaration shall become effective upon recordation in the land records of Valley County, Idaho, unless a later effective date

is specified therein. Any procedural challenge to an amendment must be made within six months of its recordation or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of this Declaration.

If an Owner consents to any amendment to any of the Association Documents, it will be conclusively presumed that such Owner has the authority so to consent, and no contrary provision in any Mortgage or contract between the Owner and a third party will affect the validity of such amendment. No amendment shall be contrary to the terms or conditions of any valid city, county, state, or federal permit applicable to Aspen Ridge Phase III; nor, shall any Amendment divest any Owner of any material and substantial vested property rights.

No amendment may remove, revoke, or modify any right or privilege of the Declarant without the written consent of the Declarant or the assignee of such right or privilege.

17.3 Effect of Provisions of Declaration: Each provision of this Declaration and the Bylaws, and an agreement, promise, covenant and undertaking to comply with each provision of this Declaration and the Bylaws, and any necessary exception or reservation or grant of title, estate, right or interest to effectuate any provision of this Declaration and the Bylaws: (a) shall be deemed incorporated in each deed or other instrument by which any right, title or interest in any real property within Aspen Ridge Phase III is granted, devised or conveyed, whether or not set forth or referred to in such deed or other instrument; (b) shall, by virtue of acceptance of any right, title or interest in any real property within Aspen Ridge Phase III by an Owner or the Association, be deemed accepted, ratified, adopted and declared as a personal covenant of such Owner or the Association, as the case may be, (c) shall, as a personal covenant, be binding on such Owner or the Association and such Owner's or the Association's respective heirs, personal representatives, successors and assigns; (d) shall, as a personal covenant of an Owner, be deemed a personal covenant to, with and for the benefit of Declarant and to, with and for the benefit of the Association but not to, with or for the benefit of any other Owner; shall, if a personal covenant of the Association, be deemed a personal covenant to, with and for the benefit of Declarant and to, with and for the benefit of each Owner; (f) shall be deemed a real covenant by Declarant, for itself, its successors and assigns, and also an equitable servitude, running, in each case, as a burden with and upon the title to each parcel of real property within Aspen Ridge Phase III; (g) shall, as a real covenant and also as an equitable servitude, be deemed a covenant and servitude for the benefit of any real property now or hereafter owned by Declarant within Aspen Ridge Phase III and for the benefit of any and all other real property within Aspen Ridge Phase III; and (h) shall be deemed a covenant, obligation and restriction secured by a lien, binding, burdening and encumbering the title to each parcel of real property within Aspen Ridge Phase III which lien with respect to any Unit shall be deemed a lien in favor of Declarant and the Association, jointly and severally, and, with respect to any real property owned by the Association, shall be deemed a lien in favor of Declarant.

17.4 Enforcement and Remedies:

(a) **In General:** Each provision of this Declaration with respect to the Association or property of the Association shall be enforceable by Declarant, or by any Owner who has made written demand on the Association to enforce such provision and 30 days have lapsed without appropriate action having been taken, by a proceeding for a prohibitive or mandatory injunction. In addition to any other remedy available at law or in any of the Association Documents, each provision of this Declaration with respect to an Owner or property of an Owner shall be enforceable by Declarant or the Association by a proceeding for a prohibitive or mandatory injunction and/or by a suit or action to recover damages, and/or, in the discretion of the Association, for so long as any Owner fails to comply with any such provisions, by exclusion of such Owner and such Owner's Guests from use of any Facility and from enjoyment of any Function. If court proceedings are instituted in connection with the rights of enforcement and remedies provided in this Declaration, the prevailing party shall be entitled to recover its costs and expenses in connection therewith, including reasonable attorneys' fees and injunction bond premiums.

(b) **Fines:** In addition to the provisions of Section 17.4(a), the Board shall be entitled to impose fines and penalties for violations of this Declaration in amounts to be provided in the Design Guidelines and/or Rules and Regulations. Fines and penalties may be assessed only against a Member of the Association, and only if the violator is the Member or a member of the Member's family or a guest, invitee, lessee, contractor, subcontractor, employee or agent of the Member. Fines and penalties may be increased in the case of a continuing violation, where the Member has failed to abate the violation within the time allowed therefore by the Board in written notice to the Member. In the case of a single incident, the fine or penalty may not be assessed unless the Member has received at least one prior written notice

from the Board that the violation may subject the Member to fine(s). Fines and penalties imposed pursuant to this Section may be collected as an assessment as provided in the Bylaws and this Declaration. Non-payment of assessments shall not subject a Member to fines; rather, the remedy therefore shall be as provided in the Bylaws and as may otherwise be provided in this Declaration.

17.5 Protection of Encumbrancer: No violation or breach of, or failure to comply with, any provision of this Declaration and no action to enforce any such provision shall affect, defeat, render invalid or impair the lien of any mortgage, deed of trust or other lien on any property taken in good faith and for value and perfected by recording in the office of the Recorder of Valley County, Idaho, prior to the time of recording in said office of an instrument describing such property and listing the name or names of the Owner or Owners of fee simple title to the property and giving notice of such violation, breach or failure to comply, nor shall such violation, breach, failure to comply or action to enforce affect, defeat, render invalid or impair the title or interest of the holder of any such mortgage, deed of trust, or other lien or title or interest acquired by any purchaser upon foreclosure of any such mortgage, deed of trust or other lien or result in any liability, personal or otherwise, of any such holder or purchaser. Any such purchaser upon foreclosure shall, however, take subject to this Declaration with the exception that violations or breaches of, or failures to comply with, any provisions of this Declaration which occurred prior to the vesting of fee simple title in such purchaser shall not be deemed breaches or violations hereof or failures to comply herewith with respect to such purchaser, his heirs, personal representatives, successors or assigns.

17.6 Perpetuities: The covenants, conditions, restrictions, and other provisions of this Declaration and any other Association Document shall continue in full force and effect until the death of the last survivor of the now living grandchildren of Robert F. Kennedy, the former Attorney General of the United States of America, plus twenty-one years, unless this Declaration is sooner terminated pursuant to Section 17.1 above.

17.7 Limited Liability: Neither Declarant, the Association, the ACC, the Board nor any member, agent or employee of any of the same shall be liable to any party for any action or for any failure to act with respect to any matter if the action taken or failure to act was in good faith and without malice.

17.8 Use of Trademark: Each Owner by acceptance of a deed for his Unit, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to acknowledge that "Aspen Ridge Phase III" is a service mark and trademark of Mountain West Developers, Inc. or its licensees and to covenant that he shall not use the term "Aspen Ridge Phase III" without the prior written permission of the Declarant or its licensees.

17.9 Successors and Assigns: Except as otherwise provided herein, this Declaration shall be binding upon and shall inure to the benefit of Declarant, the Association, and each Owner and their respective heirs, personal representatives, successors and assigns.

17.10 Severability: Invalidity or unenforceability of any provision of this Declaration in whole or in part shall not affect the validity or enforceability of any other provision or any valid and enforceable part of a provision of this Declaration.

17.11 Captions: The captions and headings in this instrument are for convenience only and shall not be considered in construing any provisions of this Declaration.

17.12 Construction: When necessary for proper construction, the masculine of any word used in this Declaration shall include the feminine or neuter gender, and the singular the plural, and vice versa.

17.13 No Waiver: Failure to enforce any provisions of the Association Documents shall not operate as a waiver of any such provision or of any other provision of the Association Documents.

17.14 Notice of Sale or Transfer of Title: Any Owner desiring to sell or otherwise transfer title to his or her Unit shall give the Association at least seven days' prior written notice of the name and address of the purchaser or transferee, the date of such transfer of title, and such other information as the Association may reasonably require.

APPROVAL OF AMENDMENT

The aforesaid Second Amended and Restated Supplemental Declaration was approved by the Members of the Aspen Ridge Phase III Association, Inc. at a meeting conducted on June 6, 2011. 71 Members voted, with 71 Members voting to approve, and voting to deny approval, resulting in a percentage of Members voting to approve of 87 %. There are a total of 86 Members in the Association, therefore a quorum

was present. This Declaration was approved by the Members, and the Declarant pursuant to its signature below, accordance with Section 17.2(b) and 2.1.

IN WITNESS WHEREOF the Association has executed this Declaration the day and year first above written.

ASPEN RIDGE PHASE III ASSOCIATION, INC.

By: *Ray Woods*
Ray Woods, President

IN WITNESS WHEREOF, the Declarant hereby consents to this Second Amended and Restated Supplemental Declaration, effective on the date set forth above, pursuant to Section 12.6 of the Supplemental Declaration To The Aspen Ridge Master Declaration For Aspen Ridge Phase III, which was recorded with the Valley County, Idaho Recorder on January 12, 2007 as Instrument No. 317489.

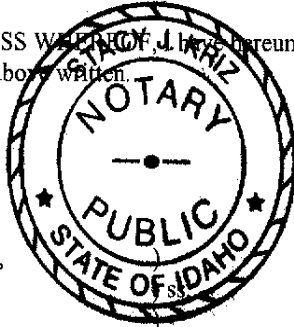
MOUNTAIN WEST DEVELOPERS, INC.,
An Idaho corporation

By: *Ray Woods*
Ray Woods, President

STATE OF IDAHO,)
) ss.
County of Valley.)

On this 27th day of June, 2011, before me, Stacy J. Kriz, a Notary Public in and for said State, personally appeared **Ray Woods**, known or identified to me to be the President of **Aspen Ridge Phase III Association, Inc.**, the company that executed the instrument or the person who executed the 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.

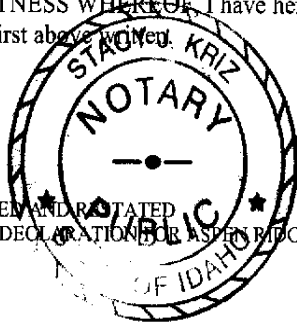


Stacy J. Kriz
NOTARY PUBLIC FOR IDAHO
My Commission Expires: 07/05/13

STATE OF IDAHO,
County of Valley.

On this 27th day of June, 2011, before me, Stacy J. Kriz, a Notary Public in and for said State, personally appeared **Ray Woods**, known or identified to me to be the President of **Mountain West Developers, Inc.**, the corporation that executed the instrument or the person who executed the 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.



Stacy J. Kriz
NOTARY PUBLIC FOR IDAHO
My Commission Expires: 07/05/13

EXHIBIT A

THOMAS W. KERR
PLS 998

KERR SURVEYING
PO Box 853 404 E. Park
McCall, ID 83638
208-634-2686 / Fax 208-634-4042

ROD M. SKIFTUN
PLS 9585

JANUARY 21, 2005

ASPEN RIDGE
Phase III
25.868 Acres
City of McCall, Valley County, Idaho

A parcel situate in the NE 1/4 of Section 10, T. 18 N., R. 3 E., B.M., in the City of McCall, Valley County, Idaho, more particularly described as follows:

Commencing at a brass cap marking the corner common to Sections 2, 3, 10, and 11, T. 18 N., R. 3 E., B.M., City of McCall, Valley County, Idaho, the **REAL POINT OF BEGINNING**:

Thence, S. 0°04'46" W., 391.62 feet along the line common to Sections 10 and 11, to a 5/8" rebar marking the northeast corner of Lot 127, Aspen Ridge Subdivision, Phase I, as recorded in Book 9, on Page 45 of Plats, as Instrument No. 279772, in the Office of the Recorder of Valley County, Idaho,

thence, S. 52°10'13" W., 459.25 feet along the northerly boundary of said Lot 127 to a 5/8" rebar on the northerly right-of-way of Aspen Ridge Lane,

thence, S. 69°02'15" W., 650.98 feet along said northerly right-of-way to a 5/8" rebar,

thence, 419.53 feet along said northerly right-of-way on a curve to the left, whose delta angle is 24°02'15", radius is 1,000.00 feet, and whose long chord bears S. 57°01'07" W., 416.46 feet, to a 5/8" rebar,

thence, 152.03 feet along said northerly right-of-way on a curve to the right, whose delta angle is 87°06'25", radius is 100.00 feet, and whose long chord bears S. 88°33'12" W., 137.81 feet to a 5/8" rebar,

thence, N. 47°53'35" W., 42.67 feet along said northerly right-of-way to a 5/8" rebar,

thence, 37.42 feet along said northerly right-of-way on curve to the right, whose delta angle is 85°46'10", radius is 25.00 feet, and whose long chord bears N. 04°55'38" W., 34.03 feet to a 5/8" rebar, on the easterly right-of-way of Spring Mountain Boulevard,

thence, 840.20 feet along said easterly right-of-way on a non-tangent curve to the left, whose delta angle is 65°56'41", radius is 730.00 feet, and whose long chord bears N. 04°59'06" E., 794.58 feet,

thence, 223.76 feet along said easterly right-of-way on curve to the right, whose delta angle is 17°48'23", radius is 720.00 feet, and whose long chord bears N. 19°05'03" W., 222.86 feet,

thence, 75.01 feet along said easterly right-of-way on curve to the left, whose delta angle is 05°10'40", radius is 830.00 feet, and whose long chord bears N. 12°46'12" W., 74.98 feet, to the line common to said Sections 3 and 10, as shown on that particular Record of Survey as recorded in Book 8 on Page 4. as Instrument No. 278934 in the Office of the Recorder of Valley County, Idaho,

thence, S. 89°56'39" E., 1513.25 feet along said common line to the Point of Beginning, containing 25.868 acres.

Bearings based on plat of Aspen Ridge Subdivision No. 1, Instrument No. 279772.