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**MASTER DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
REDLANDS MESA**

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Exhibit A

Allocated Interests

Exhibit B

Recorded Easements and Licenses

**MASTER DECLARATION OF
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FOR
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THIS MASTER DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR REDLANDS MESA (the "Master Declaration"), effective this 7th day of July, 2000, is made and entered into by **REDLANDS MESA, LLC**, a Colorado limited liability company (the "Declarant").

RECITALS

1. Declarant is the owner of that certain real property situated in the City of Grand Junction, Mesa County, Colorado, known as Blocks 1 through 6, Redlands Mesa Filing 1, according to the Plat thereof recorded 17 July, 2000 in Plat Book 17 at Page 354 in the Office of the Clerk and Recorder of Mesa County, Colorado (the "Common Interest Community").

2. Declarant is also the owner certain adjoining real property more particularly described as Blocks 7 through 11, Redlands Mesa Filing 1, according to said recorded Plat thereof (the "Annexable Property").

3. The Common Interest Community and the Annexable Property have been approved for development pursuant to an Outline Development Plan for Redlands Mesa adopted by the City of Grand Junction, Colorado (the "Outline Development Plan for Redlands Mesa").

4. Declarant intends to develop the Common Interest Community as a planned community under the Colorado Common Interest Ownership Act. Declarant reserves the right, but shall have no obligation, to annex to the Common Interest Community from time to time some or all of (i) the Annexable Property, and/or (ii) additional unspecified real estate, and to develop such property as part of the planned community. Each such annexation shall be accomplished by the recording of a Supplemental Declaration, together with a Supplemental Plat or Map, which describe and depict any new Lots, Units, Common Areas and/or Subassociation Common Areas thereby added to the Common Interest Community, and which describe any Common Elements or Limited Common Elements thereby created. The Supplemental Declaration shall incorporate this Master Declaration by reference and shall set forth such amendments to the Master Declaration and such additional covenants, conditions, uses, restrictions, and reserved development rights as may be applicable to the annexed property.

5. Under the present Outline Development Plan for Redlands Mesa, five hundred twenty-six (526) legally separate Lots and Units are permitted to be created and developed. With the potential addition to the Common Interest Community of additional unspecified real estate, the maximum number of Lots and Units that may realistically be created and that Declarant reserves the right to create within the Common Interest Community is five hundred seventy-eight (578) Lots and Units.

6. Redlands Mesa Master Association, a Colorado non-profit corporation, has been formed as a master association to exercise the functions set forth herein and to own, lease, hold, operate, care for and manage certain property for the common benefit of Owners and Occupants of Lots and Units within, and of any other person acquiring an interest in, the Common Interest Community.

7. Declarant desires to establish covenants, conditions and restrictions upon the Common Interest Community and all properties that may hereafter be annexed thereto, and certain mutually beneficial restrictions and limitations with respect to the proper use, occupancy, improvement and enjoyment thereof, all for the purposes of enhancing and protecting the value, desirability and

attractiveness of the Common Interest Community and enhancing the quality of life within the Common Interest Community.

8. Declarant desires and intends that the Owners, Mortgagees, Occupants and all other Persons hereafter acquiring any interest in the Common Interest Community shall at all times enjoy the benefits of, and shall hold their interests subject to, the covenants, conditions, restrictions, assessments, charges, servitudes, liens, reservations and easements contained in this Master Declaration, as it may be amended from time to time by Supplemental Declaration or otherwise.

ARTICLE 1 DECLARATION

NOW, THEREFORE, for the purposes set forth above and herein, Declarant for itself and its successors and assigns hereby declares that the Common Interest Community and all other property which becomes subject to this Master Declaration in the manner hereinafter provided, and each part thereof, shall be owned, held, transferred, conveyed, sold, leased, rented, hypothecated, encumbered, used, occupied, improved, altered, maintained and enjoyed subject to the covenants, conditions, restrictions, assessments, charges, servitudes, liens, reservations, exceptions, easements, privileges, rights and other provisions hereinafter set forth, for the duration hereof, all of which are declared to be part of, pursuant to, and in furtherance of a common and general plan of development, improvement, enhancement, use, occupancy and enjoyment of the Common Interest Community, and all of which shall run with the land and be binding upon and inure to the benefit of (i) the Common Interest Community and every part thereof, (ii) Declarant and its successors and assigns, (iii) the Master Association and its successors and assigns, (iv) every Member of the Master Association, and (v) all Owners, Occupants and other Persons having or acquiring any right, title or interest in or to the Common Interest Community or any part thereof, or any Improvement thereon, and their respective heirs, personal representatives, successors and assigns. Provided always, that to the extent this Master Declaration provides that Declarant shall not be bound by or is exempt from the application of certain covenants, conditions and restrictions contained herein, Declarant shall not be considered subject to such covenants, conditions or restrictions.

Notwithstanding the foregoing, in no event shall the Annexable Property or any portion thereof be burdened or benefited by or otherwise subject to any of the terms or provisions of this Master Declaration until such property has been annexed to the Common Interest Community, at Declarant's sole option and discretion, and expressly subjected to the terms and provisions hereof (and any amendments hereof affecting the annexed property as may be contained in the Supplemental Declaration therefor), all as more particularly provided herein. This Declaration shall be recorded in Mesa County, Colorado and shall be indexed in the Grantee's index in the name of Redlands Mesa and the Master Association and in the Grantor's Index in the name of Redlands Mesa, LLC.

ARTICLE 2 DEFINITIONS

Unless otherwise expressly provided herein, the following words and phrases when used in this Master Declaration shall have the meanings hereinafter specified.

2.1 **Act.** "Act" shall mean the Colorado Common Interest Ownership Act as provided in C.R.S. 38-33.3-101, et seq., as the same may be amended from time to time.

2.2 **Allocated Interests.** "Allocated Interests" means the Common Expenses liability and the votes in the Master Association allocated to each Lot or Unit, which interests are allocated as follows:

(a) The Common Expenses liability for each Lot or Unit is calculated on the basis of a fraction, the numerator of which is one (1) and the denominator of which is the total number of Lots and Units in the Common Interest Community as of the date of the calculation. The denominator may be increased from time to time by the Declarant upon the addition of Lots or Units to the Common Interest Community which can be conveyed to third parties. Such fraction is then multiplied by the Common Expenses or the Assessment in question to determine that Lot's or Unit's share thereof. The Common Expenses liability of a Lot or Unit is determined without reference to the size, location, value or use of the Lot or Unit.

(b) One (1) vote in the Master Association is allocated to each Lot and Unit in the Common Interest Community.

(c) The foregoing allocations may not discriminate in favor of Lots or Units owned by Declarant or an affiliate of Declarant.

(d) If Lots or Units are added to or withdrawn from the Common Interest Community, (i) the Common Expenses liability for each Lot or Unit shall be reallocated on the basis of a fraction, the numerator of which is one (1) and the denominator of which is the total number of Lots and Units in the Common Interest Community following the addition or withdrawal of such Lots or Units, and (ii) one vote in the Master Association shall continue to be allocated to each Lot or Unit in the Common Interest Community following the addition or withdrawal of such Lots or Units.

The Allocated Interests for the Common Interest Community are specifically set forth on Exhibit A attached hereto and made a part hereof by this reference, as said Exhibit A may be amended from time to time.

2.3 **Annexable Property.** "Annexable Property" means Blocks 7 through 11, Redlands Mesa Filing 1, which property is included in the Outline Development Plan for Redlands Mesa but has not yet been annexed to the Common Interest Community or made subject to the terms and provisions of this Master Declaration. In the sole discretion of Declarant, all or a portion of the Annexable Property may from time to time be annexed to, and made a part of, the Common Interest Community in the manner provided in this Master Declaration.

2.4 **Articles of Incorporation.** "Articles of Incorporation" or "Articles" means the Articles of Incorporation of Redlands Mesa Master Association, which have been or will be filed with the office of the Secretary of State of the State of Colorado, as the same may be amended from time to time.

2.5 **Assessment.** "Assessment" means a Regular Assessment, Special Assessment or Reimbursement Assessment.

2.6 **Association Property.** "Association Property" means, to the extent of the Master Association's interest therein: (a) all real and personal property, including Improvements, now or hereafter owned or leased by the Master Association; (b) all Common Areas now or hereafter owned, leased or maintained by the Master Association, together with all improvements thereon; (c) all easements created or reserved on any Plat, or Supplemental Plat, or in this Master Declaration or in

any Supplemental Declaration, or in any separate agreement, for the use and benefit of the Master Association and/or the Owners, and (d) any water rights, ditch rights, and water systems, facilities and/or features (or interests therein) that may be owned, leased or maintained by the Master Association or which the Master Association is entitled to use. Association Property may be located within or outside the Common Interest Community. With the exception of easements which are Association Property, Association Property does not include the Lots or Units or the Improvements constructed thereon, and are subject to the Permitted Exceptions.

2.7 **Budget.** "Budget" means a written itemized estimate of the Common Expenses to be incurred by the Master Association in performing its functions under this Master Declaration and adopted by the Executive Board pursuant to Section 10.7 of this Master Declaration.

2.8 **Building Envelope.** "Building Envelope" means that portion of a Lot which may be depicted and designated as the "Building Envelope" on a Plat. If a Lot contains a platted Building Envelope, all Improvements on that Lot must be located entirely within the Building Envelope, including but not limited to dwellings, attached patios and decks, garages, swimming pools and storage buildings, but excluding roof overhangs, access driveways, underground utilities, and irrigation and drainage systems. The Design Review Committee may approve the location of certain Improvements outside the Building Envelope, such as landscaping and fences.

2.9 **Bylaws.** "Bylaws" means the Bylaws of the Master Association which have been or will be adopted by the Executive Board of the Master Association, as the same may be amended from time to time.

2.10 **City.** "City" means the City of Grand Junction, Colorado.

2.11 **Common Area.** "Common Area" means any portion of the Common Interest Community designated in this Master Declaration or any Supplemental Declaration or on a Plat or any Supplemental Plat as Common Area or Limited Common Area or Open Space and which is owned or leased or maintained by the Master Association for the common use and enjoyment of the Owners and Occupants or some of them, including, but not limited to, pathways, trails, and common access drives.

2.12 **Common Elements.** "Common Elements" means all portions of any Condominium that may be created within the Common Interest Community, other than the Units within that Condominium. "General Common Elements" means all Common Elements except Limited Common Elements.

2.13 **Common Expenses.** "Common Expenses" means any expenditures made or liabilities incurred by or on behalf of the Master Association, together with any allocations to reserves, including, but not limited to the following:

(a) The costs of maintenance, management, operation, repair and replacement of the Association Property, and of all other parts of the Common Interest Community which are managed or maintained by the Master Association, but excluding any areas being managed or maintained at the expense of a Subassociation;

(b) The costs of Improvements constructed from time to time by the Master Association on or in connection with Association Property, if such costs were included within a duly adopted Budget;

- (c) Unpaid assessments;
- (d) The costs of management and administration of the Master Association, including, but not limited to, compensation paid by the Master Association to managers, accountants, attorneys and employees;
- (e) The costs of utilities and services (including, but not limited to, treated or untreated water, electricity, gas, sewer, trash pick-up and disposal and recycling), which are provided to the Master Association or the Common Interest Community or parts thereof and not individually metered or assessed to Lots or Units, landscaping maintenance, and other services which generally benefit and enhance the value and desirability of the Common Interest Community or parts thereof and which are provided by or on behalf of the Master Association, but excluding any such utilities or services that may be provided by a Subassociation;
- (f) The costs of insurance maintained by the Master Association as required or permitted herein, but excluding any insurance maintained by a Subassociation;
- (g) Reasonable reserves for contingencies, replacements and other proper purposes as deemed appropriate by the Executive Board to meet anticipated costs and expenses including, but not limited to, maintenance, repair and replacement of Association Property that must be maintained, repaired or replaced on a periodic basis.
- (h) The costs of bonding the members of the Executive Board, the officers of the Master Association, any professional managing agent or any other Person handling the funds of the Master Association;
- (i) Taxes paid by the Master Association;
- (j) Amounts paid by the Master Association for the discharge of any lien or encumbrance levied against Association Property or any portion thereof;
- (k) The costs incurred by the Design Review Committee, and by any other committees that may be established from time to time by the Executive Board;
- (l) The costs of any security or security systems or services that may be installed, operated, monitored or contracted for by the Master Association for the benefit of the Common Interest Community;
- (m) The costs of maintaining, operating and replacing informational, recreational, cultural, health-related or similar facilities or enterprises available to or for the benefit of all or a portion of the Common Interest Community;
- (n) All expenses expressly declared to be Common Expenses by this Master Declaration or by a Supplemental Declaration, and all expenses lawfully determined to be Common Expenses by the Executive Board; and
- (o) Other expenses incurred by the Master Association for any reason whatsoever in connection with Association Property, or the costs of any other item or service provided or performed by the Master Association pursuant to this Master Declaration, any Supplemental Declaration, the Articles, Bylaws, Master Rules and Regulations, or Design Guidelines, or in

furtherance of the purposes of the Master Association or in the discharge of any duties or powers of the Master Association. In the event that any common services furnished to the Common Interest Community are part of services that are provided to or benefit property in addition to the Common Interest Community, Common Expenses shall only include the cost of such services reasonably allocated to the services provided to the Common Interest Community.

2.14 **Common Interest Community.** "Common Interest Community" means Blocks 1 through 6, Redlands Mesa Filing 1, and any additional real property which may from time to time be annexed to the Common Interest Community and made subject to this Master Declaration by Supplemental Declaration and Supplemental Plat or Map, including all Lots, Units, Association Property, Common Elements and Limited Common Elements, if any, together with all Improvements and other amenities now or hereafter located thereon, and together with all easements, rights, appurtenances and privileges belonging or in any way pertaining thereto. If any property is subsequently withdrawn from the Common Interest Community pursuant to the provisions of this Master Declaration, the term "Common Interest Community" shall thereafter not include said withdrawn property.

2.15 **Condominium.** "Condominium" means any part of the Common Interest Community in which portions of the real estate (i.e., Units) are designated for separate ownership and the remaining real estate is designated for common ownership in undivided interests solely by the Owners of said Units

2.16 **Declarant.** "Declarant" means Redlands Mesa, LLC, a Colorado limited liability company, its successors, assigns, and affiliates. A Person shall be deemed to be a "successor and assign" of Declarant if specifically designated in a duly Recorded instrument as a successor or assign of Declarant under this Master Declaration and shall be deemed a successor and assign of Declarant only as to the particular rights or interests of Declarant under this Master Declaration which are specifically designated in that written instrument. The term "affiliate of Declarant" shall have the meaning set forth in Section 38-33.3-103(1) of the Act.

2.17 **Declaration of Easements.** "Declaration of Easements" means that certain Declaration of Golf Course and Community Area Easements made by Declarant and recorded 17 July, 2000 in Book 2730 at Page 44 in the Office of the Clerk and Recorder of Mesa County, Colorado, which instrument establishes certain easements and restrictions on the Common Interest Community for the benefit of the Golf Land, and establishes certain easements and restrictions on the Golf Land for the benefit of the Common Interest Community, all as more specifically set forth therein.

2.18 **Deed of Trust.** "Deed of Trust" means a Mortgage.

2.19 **Design Guidelines.** "Design Guidelines" means the rules, procedures, standards, guidelines and requirements promulgated from time to time by the Design Review Committee, and all amendments thereto, governing the review and approval or disapproval of proposed Improvements within the Common Interest Community, the registration of Builders, and such other matters as the Design Review Committee considers necessary or appropriate.

2.20 **Design Review Committee.** "Design Review Committee" means the Committee provided for in Article 4 of this Master Declaration.

2.21 **Executive Board.** "Executive Board" or "Board" means the Executive Board of the Master Association.

2.22 **Golf Land.** "Golf Land" means that certain property adjacent to the Common Interest Community which is more particularly depicted and described as Golf Blocks 12 through 17 on the recorded Plat of Redlands Mesa Filing 1, together with all improvements and facilities that may be located thereon from time to time. In no event shall the Golf Land be deemed a part of the Common Interest Community, or be burdened by this Master Declaration. The Golf Land is not Association Property. This Master Declaration does not grant or create any rights to or for the benefit of the Owners or Occupants of Lots or Units in the Common Interest Community to use or enjoy the Golf Land or any improvements or facilities constructed thereon for any purpose.

2.23 **Golf Owner.** "Golf Owner" means the record owner from time to time of the Golf Land, and its successors and assigns.

2.24 **Household Pets.** "Household Pets" means generally recognized household pets such as dogs, cats, fish, birds, rodents, and non-poisonous reptiles.

2.25 **Improvements.** "Improvements" means any improvements, structural or otherwise, alterations, additions, repairs, excavation, grading, landscaping or other work which in any way alter any property within the Common Interest Community, or the improvements located thereon, from its natural or improved state existing on the date this Master Declaration or a Supplemental Declaration for such property was first Recorded, including, but not limited to, dwelling units, buildings, outbuildings, additions, swimming pools, patio covers, awnings, the painting, staining or other change of any exterior surfaces of any visible structure, walkways, outdoor sculptures or artwork, sprinkler or irrigation systems, garages, carports, roads, driveways, parking areas, ponds, ditches, fences, screening walls, retaining walls, stairs, decks, flag poles, fixtures, landscaping (including the addition, alteration or removal of any tree, shrub or other vegetation), hedges, windbreaks, plantings, planted trees and shrubs, gardens, poles, signs, tanks, solar equipment, wind harnessing or other energy generating equipment, exterior air conditioning, water softener fixtures, utilities, antennae and satellite dishes or receivers. Once an Improvement has been constructed or accomplished on a property within the Common Interest Community, any subsequent alteration of or addition to or removal of that Improvement shall also constitute an "Improvement" hereunder.

2.26 **Lease.** "Lease" means and refers to any agreement for the leasing, rental, use or occupancy of a Unit, or of a residential dwelling located on a Lot, within the Common Interest Community. The required terms and procedures for Leases are more particularly set forth in Section 3.34 below.

2.27 **Limited Common Area.** "Limited Common Area" means a Common Area that is designated by this Master Declaration, by a Supplemental Declaration, on the Plat, or on a Supplemental Plat, for the exclusive use of one or more Lots in the Common Interest Community but fewer than all of the Lots.

2.28 **Limited Common Element.** "Limited Common Element" means a portion of the Common Elements in a Condominium allocated by the Supplemental Declaration or the amendment or the Map by which said Condominium is created for the exclusive use of one or more Units in the Condominium but fewer than all of the Units.

2.29 **Lot.** "Lot" means any part of the Common Interest Community which is designated as a Lot or a Townhome Lot on a Plat or any Supplemental Plat or amendment, together with all Improvements thereon and appurtenances thereto. The term "Lot" shall not include Units.

2.30 **Map.** "Map" means any map that is incorporated in a Supplemental Declaration or amendment and that depicts a portion of the Common Interest Community in three dimensions. A Map is required for any portion of the Common Interest Community with Units having a horizontal boundary. A Map and a Plat may be combined in one instrument.

2.31 **Master Association.** "Master Association" means the Redlands Mesa Master Association, a Colorado nonprofit corporation, its successors and assigns.

2.32 **Master Declaration.** "Master Declaration" means this instrument and all Supplemental Declarations, as this instrument and such Supplemental Declarations may be amended from time to time.

2.33 **Master Rules and Regulations.** "Master Rules and Regulations" means rules and regulations adopted from time to time by the Executive Board, as provided in Section 9.9 of this Master Declaration.

2.34 **Member.** "Member" means each Lot or Unit Owner, including the Declarant. Membership in the Master Association shall be appurtenant to, and may not be separated from, ownership of a Lot or Unit.

2.35 **Mortgage.** "Mortgage" means any mortgage, deed of trust or other security instrument, given voluntarily by the Owner of a Lot or Unit, creating a real property security interest in a Lot or Unit and Recorded in the real property records of the Clerk and Recorder of Mesa County. "First Mortgage" means a mortgage which is the first and most senior of the Mortgages on the same Lot or Unit. The term "Mortgage" does not mean a statutory, tax or judicial lien. The term "Deed of Trust" when used herein shall be synonymous with the term "Mortgage."

2.36 **Mortgagee.** "Mortgagee" means a mortgagee under a Mortgage or a beneficiary under a Deed of Trust, as the case may be, and the assignees of such Mortgagee.

2.37 **Mortgagor.** "Mortgagor" means the maker, obligor or grantor of a Mortgage. The term "Mortgagor" includes a trustor or grantor under a Deed of Trust.

2.38 **Notice and Hearing.** "Notice and Hearing" means a written notice and public hearing before the Executive Board, or a panel appointed by the Executive Board, as set forth in the Bylaws.

2.39 **Occupant.** "Occupant" means any Person who is a tenant in a Unit, or in a residence on a Lot, pursuant to a Lease with the Owner thereof. "Occupant" also means any Person who is present within the Common Interest Community as a family member, guest or invitee of an Owner, an Occupant, the Declarant, or the Master Association.

2.40 **Owner.** "Owner" means the Person, including Declarant, or, if more than one, all Persons collectively, who hold fee simple title of Record to a Lot or Unit, including sellers under executory contracts of sale and excluding buyers thereunder. The term "Owner" shall be analogous to the term "Unit Owner", as that term is defined in the Act.

2.41 **Permitted Exceptions.** "Permitted Exceptions" means all liens, encumbrances, reservations, restrictions, conditions, easements and other matters of record which encumber the title to all or any part of the Common Interest Community, as of the date this Master Declaration or a Supplemental Declaration or Map is Recorded. This Master Declaration and any Supplemental Declaration or Map shall be subject to such Permitted Exceptions.

2.42 **Person.** "Person" means a natural person, a corporation, a partnership, a limited liability company, a trust, or any other entity capable of holding title to real property pursuant to the laws of the State of Colorado.

2.43 **Plat.** "Plat" means the Plat of Redlands Mesa Filing 1, as recorded #1957570 17 July, 2000 in Plat Book 17 at Page 354 in the Office of the Clerk and Recorder of Mesa County, Colorado, as said Plat may be amended from time to time. By this reference, said Plat is incorporated in this Master Declaration. The term "Plat" also means each Supplemental Plat Recorded by Declarant and all Recorded amendments thereto. As provided in the Act, a Plat and a Map may be combined in the same instrument. Whenever used in this Master Declaration or in any Supplemental Declaration, the term "Plat" also means any Map that may be so combined with a Plat, or any Map that may be recorded instead of a Plat in order to depict a portion of the Common Interest Community in three dimensions as provided in the Act.

2.44 **Registered Builder.** "Registered Builder" means a general contractor that has been registered to perform work within Redlands Mesa with the Design Review Committee pursuant to the guidelines and procedures set forth herein and in the Design Guidelines.

2.45 **Record or Recorded.** "Record" or "Recorded" means an instrument of record in, or the act of recording an instrument with, the office of the Clerk and Recorder of Mesa County.

2.46 **Regular Assessment.** "Regular Assessment" means a charge against an Owner and the Owner's Lot or Unit for purposes of covering the annual costs of operating and administering the Master Association and all other Common Expenses. Regular Assessments are based on a Budget adopted by the Executive Board in accordance with Section 10.7 below, and are allocated to the Lots and Units in accordance with the Allocated Interests, except that Common Expenses that in the judgment of the Executive Board benefit fewer than all of the Lots or Units shall be allocated exclusively to the Lots or Units benefited.

2.47 **Reimbursement Assessment.** "Reimbursement Assessment" means a charge against a particular Owner and the Owner's Lot or Unit for purpose of reimbursing the Master Association for costs and expenses incurred by the Master Association in connection with the enforcement of any provision hereof or the remedying of any violation by the Owner or an Occupant of this Master Declaration or any amendment hereto or any Supplemental Declaration, the Articles, Bylaws, Master Rules and Regulations, or Design Guidelines, or any approvals granted by the Design Review Committee, or for other purposes set forth in the Master Declaration, pursuant to Section 10.9 hereof, together with late charges and interest as provided for herein. Reimbursement Assessment shall include without limitation any Common Expense caused by the misconduct of any Lot or Unit Owner or of such Owner's Occupants.

2.48 **Special Assessment.** "Special Assessment" means a charge against an Owner and the Owner's Lot or Unit for purposes of reimbursing the Master Association for costs and expenses incurred or to be incurred by the Master Association for the purpose of paying for the construction, reconstruction, repair, maintenance or replacement of capital improvements to or upon or serving the

Common Interest Community, the costs of which were not included in a Regular Assessment, or for excess reconstruction costs or other extraordinary expenses, or to acquire Association Property, or for funding any operating deficit of the Master Association, as authorized by the Executive Board from time to time as provided herein. Special Assessments shall be based on a Budget adopted by the Executive Board in accordance with Section 10.7 below.

2.49 **Subassociation.** "Subassociation" means any Colorado nonprofit corporation, and its successors and assigns, organized and established by Declarant pursuant to or in connection with any Supplemental Declaration.

2.50 **Subassociation Common Area.** "Subassociation Common Area" means all real property interests (not just fee title and leasehold interests) and the Improvements or amenities and personal property thereon which may from time to time be owned, leased or maintained by a Subassociation or otherwise held by a Subassociation for the use, enjoyment and benefit of the members of such Subassociation or some of them.

2.51 **Supplemental Declaration.** "Supplemental Declaration" means an amendment to this Master Declaration which annexes real property to the Common Interest Community, subjects such real property to this Master Declaration, and sets forth such amendments to the Master Declaration and such additional covenants, conditions, uses and restrictions as may be applicable to the annexed property, executed by Declarant and Recorded in the Office of the Clerk and Recorder of Mesa County, and any Recorded amendments thereto.

2.52 **Supplemental Plat.** "Supplemental Plat" means any land survey plat which is Recorded by Declarant for the purpose of annexing the real property described therein to the Common Interest Community, and any Recorded amendments to such Supplemental Plat. Supplemental Plats shall include, without limitation, those City-approved Plats of subsequent filings of Redlands Mesa, or those portions of such Plats, as are made subject to this Master Declaration from time to time by Supplemental Declaration.

2.53 **Townhome Lot.** "Townhome Lot" means any Lot which is designated as a Townhome Lot on a Plat, together with all Improvements thereon and appurtenances thereto. Where the Townhomes share a common wall, said common wall shall be deemed divided equally in half vertically through its center, and each half shall be deemed a part of and owned by the Townhome Lot adjacent to that half of the common wall.

2.54 **Unit.** "Unit" means any part of the Common Interest Community which is designated as a Unit or a Townhome Unit on any Supplemental Plat or Map (including each individual unit within a condominiumized townhome structure), together with all improvements therein and appurtenances thereto. A Unit shall include such Common Elements and Limited Common Elements as may be appurtenant thereto as reflected in the Supplemental Declaration and the Supplemental Plat or Map by which such Unit is created. The term "Unit" shall not include Lots.

ARTICLE 3 GENERAL RESTRICTIONS APPLICABLE TO THE COMMON INTEREST COMMUNITY

It is the intention of Declarant to establish and impose a common and general plan for the improvement, development, use and occupancy of the Common Interest Community, all in order to enhance the value, desirability, and attractiveness of the Common Interest Community and to promote

the marketing, development and enjoyment thereof. Accordingly, Declarant hereby declares that the entire Common Interest Community, including but not limited to all Lots and Units, shall be owned, held, used, occupied, improved, altered, maintained, conveyed, leased, encumbered and enjoyed subject to the following covenants, conditions, restrictions, reservations, easements, rights and other provisions, and to the further requirements and restrictions set forth in the Design Guidelines, subject to such Declarant exemptions as may be set forth herein.

3.1 **Master Development Control.** Except as otherwise expressly provided in this Master Declaration or in any Supplemental Declaration, (i) no residence, building, structure, fence, wall, landscaping or other Improvement shall be commenced, erected, improved, altered, made, done, permitted, located or removed within the Common Interest Community without the prior written approval of the Design Review Committee, and (ii) all subsequent additions to or changes or alterations in any residence, building, structure, fence, wall, landscaping or other Improvement, including without limitation exterior color scheme, and all changes in the grade of Lots, shall also be subject to the prior written approval of the Design Review Committee. No modifications from the approvals granted by the Design Review Committee shall be made without the prior written approval of the Design Review Committee. Notwithstanding the foregoing, in the event of an emergency or the sudden occurrence of unanticipated conditions which threaten the health, safety or physical well-being of Persons or property within the Common Interest Community, the Executive Board and/or the Design Review Committee shall have the authority (without the prior approvals described above), to take whatever remedial action may be necessary anywhere in the Common Interest Community to protect Persons and property until such time as applicable notice and/or approval procedures can reasonably be utilized. Further notwithstanding the foregoing, Design Review Committee approval shall not be required for Improvements made by Declarant in the exercise of any development rights or special Declarant rights reserved by Declarant in this Master Declaration or in any Supplemental Declaration.

3.2 **Violation of Law, Insurance, Etc.** No Owner or Occupant or Person shall do any act or cause or permit anything to be done or kept in or upon a Lot, a residence constructed thereon, a Unit or the Association Property which would result in the increase of, or cancellation of, insurance maintained by the Master Association or would be in violation of any federal, state, town or other law, ordinance, regulation or code of any governmental body having jurisdiction, or of any Master Rule or Regulation promulgated by the Master Association, or of any provision of this Master Declaration.

3.3 **General Maintenance of Common Interest Community.** All property within the Common Interest Community, including without limitation all Lots (including unimproved Lots, and Lots on which Improvements are under construction), Units, Association Property, Improvements, and landscaping, shall be kept and maintained in a clean and attractive condition and in good order, condition and repair.

(a) Except as specifically set forth in this Section 3.3 or in a Supplemental Declaration, maintenance, repair, and upkeep of each Lot or Unit and the Improvements thereon (including attractive painting and refinishing thereof at regular intervals) shall be the responsibility of the Owner of the Lot or Unit. Such maintenance and repair shall be performed by each Owner whenever necessary or appropriate and at regular intervals in order to keep the Lot or Unit and Improvements in substantially the same condition and appearance as existed at the time of completion of construction, subject to normal wear and tear that cannot be avoided. Said Owner obligations shall include all maintenance, repair or replacement required as a consequence of any fire, wind, vandalism, theft or other casualty. With respect to a Lot, this maintenance obligation extends to all lands and landscaping within the Lot lines, excepting any areas or elements that are to be maintained by the Master

Association. Unsightly conditions on a Lot or Unit shall constitute a nuisance under this Master Declaration.

(b) Maintenance, repair, and upkeep of Association Property, including any Improvements and landscaping thereon, shall be the responsibility of the Master Association, although the Master Association may enter into contracts to have such responsibilities performed by third parties.

(c) The individual Lot or Unit Owners and the Executive Board shall each use a reasonable standard of care in providing for the repair, management and maintenance of the properties for which they are responsible so that the entire Common Interest Community will reflect a pride of ownership.

(d) If an Owner fails to perform any of such obligations within ten (10) days following receipt of a written notice from the Executive Board requesting the same, the Executive Board shall have the right to enter upon the Lot or Unit of the Owner to cure the violation, to perform any needed repairs or maintenance, or to otherwise cause compliance with this provision and to levy and collect a Reimbursement Assessment upon the Owner and its Lot or Unit for the costs and expenses incurred by the Master Association in connection therewith. The Executive Board shall have no right to enter into the interior of a residence without the consent of the Owner except in the case of a clear emergency.

3.4 Residential Use and Occupancy. Each Lot or Unit shall be improved, occupied and used only for private single-family residential purposes. No structures whatsoever, other than those permitted by the final approvals for Redlands Mesa or by other applicable City of Grand Junction zoning regulations and approved in writing by the Design Review Committee, shall be erected, placed or permitted to remain on any Lot. No office, business and/or commercial structures shall be permitted within the Common Interest Community except in those areas where such uses are allowed by applicable provisions of the Outline Development Plan and the Plat of each filing for Redlands Mesa. Except as so allowed, no business, professional or other non-residential or commercial use shall be made of any Lot or Unit, or conducted in any Unit or in any residence constructed on a Lot, excepting in-home businesses or occupations which do not involve (i) employees, (ii) the solicitation or invitation of the general public, or (iii) the servicing of customers, and which activities are conducted entirely within the Unit or residence and do not cause any additional traffic or parking within the Common Interest Community or otherwise create a nuisance for neighboring Lots or Units or the Common Interest Community. No equipment or materials incident to any business or occupation (whether conducted within the Units or residence or elsewhere) shall be kept or stored on any Lot or Unit except within the Unit, residence, garage, barn, or other outbuilding approved by the Design Review Committee. Notwithstanding the foregoing, activities normally associated with the sale by the Declarant or an Owner of an improved or unimproved Lot or Unit shall be allowed, subject to any limitations contained in this Master Declaration.

3.5 New Construction Required; No Temporary Buildings or Occupancy. All Improvements constructed within or placed upon the Common Interest Community shall be new, no pre-fabricated or manufactured housing, no mobile homes (single or double wide), and no used or temporary house, structure, or non-permanent out-building (specifically including mobile homes and trailers) shall ever be placed, erected or allowed to remain within the Common Interest Community except temporary structures or construction trailers approved in advance by the Design Review Committee which are used for construction purposes during the construction of a residence, which temporary facilities shall be removed immediately following completion of construction and in any event no later than 18

months following commencement of construction or remodeling unless a written extension is granted by the Design Review Committee. No trailer, mobile home, incomplete residence or other structure other than a residence or Unit completed in accordance with approved plans, shall ever be used or occupied at any time for residential purposes, either temporarily or permanently. No completed residence on a Lot, and no Unit, shall be occupied in any manner until all provisions of this Master Declaration and of the Design Guidelines and all conditions of development approval have been complied with, and a Certificate of Compliance has been issued pursuant to Section 4.17 below. The work of constructing, altering or remodeling any residence on a Lot, any Unit, or any other Improvement within the Common Interest Community shall be prosecuted diligently from the commencement thereof until the completion thereof.

3.6 **Building Envelopes.** See the above definition of this term for the general restrictions applicable to Building Envelopes.

3.7 **Design Guidelines.** All excavation and other land disturbance, construction, landscaping and irrigation activities within the Common Interest Community shall be strictly governed by the procedures, standards, guidelines, restrictions and requirements set forth in the Design Guidelines. A violation of the Design Guidelines shall constitute a violation of this Master Declaration and may be enforced in accordance with the terms hereof.

3.8 **Annoying Light, Sound or Odor.** All exterior lighting installed or maintained on any Lot or Unit or on any Improvement located on a Lot shall be placed so that the light source is screened or shielded from the residence on any other Lot, from any other Unit, and from the Association Property. No light shall be emitted from any part of the Common Interest Community (including any Lot or Unit) which is unreasonably bright or causes unreasonable glare. Without limiting the generality of the foregoing, no spotlights, floodlights or other high-intensity lights shall be permitted within the Common Interest Community without the prior written approval of the Design Review Committee. The Design Guidelines may contain standards for exterior lighting including, without limitation, standards for hue and intensity.

No sound shall be emitted from any part of the Common Interest Community (including any Lot or Unit) which is unreasonably loud or annoying to others, and no odor shall be emitted from any part of the Common Interest Community (including any Lot or Unit) which is noxious or unreasonably offensive to others. Again without limiting the generality of the foregoing, no exterior speakers, horns, whistles, bells, or other sound devices, other than security devices used exclusively for security purposes, shall be located or used within the Common Interest Community except with the prior written approval of the Design Review Committee.

The Executive Board, in its sole discretion, shall have the right and authority to determine the existence of any violation of this Section 3.8 including the reasonableness of any light, sound or odor.

3.9 **Noxious or Offensive Activities; Nuisances; Construction Activities.** No noxious or offensive activity shall occur or be allowed at any time on any property within the Common Interest Community, nor shall anything be done or placed thereon which is or may become a nuisance or cause an unreasonable embarrassment, disturbance, or annoyance to Owners, Occupants, Declarant or the Master Association, or which interferes with the peaceful enjoyment or possession and proper use of the Common Interest Community, or any part thereof, by Owners or Occupants. As used herein, the term "nuisance" shall not apply to any activities of Declarant which are reasonably necessary or appropriate to the development, improvement, maintenance, marketing and/or sale of the Common Interest Community or any part thereof. The Executive Board, in its sole discretion, shall have the

right and authority to determine the existence of any nuisance or unreasonable annoyance under this Section 3.9.

Each Owner shall comply with the Master Rules and Regulations and the requirements of all health authorities and other governmental authorities having jurisdiction over the Common Interest Community. Normal construction activities and parking, during daylight hours, in connection with the building of Improvements on a Lot or Unit shall not be considered a nuisance or otherwise prohibited by this Master Declaration unless they are in violation of the Design Guidelines or other requirements of the Design Review Committee, but Lots, Units and Association Property shall be kept in a neat and tidy condition during construction periods, trash and debris shall not be permitted to accumulate, and supplies of brick, block, lumber and other building materials shall be piled only in such areas as may be approved by the Design Review Committee. In addition, construction equipment and building materials may only be stored or kept within the Common Interest Community during and in connection with the construction of Improvements thereon, and then may be kept only in areas approved by the Design Review Committee, which also may require screening of the storage areas. All such equipment and materials shall be removed immediately following completion of construction.

3.10 **No Hazardous or Unsafe Activities.** No activity shall be conducted on, and no Improvement shall be constructed on, any property within the Common Interest Community which is or might be unsafe or hazardous to any Person or property. Without limiting the generality of the foregoing, and except as allowed below, no explosives, gasoline, or other volatile and/or incendiary materials or devices or any materials deemed hazardous or toxic substances under applicable environmental laws, rules, or regulations shall ever be used, kept, stored, permitted to remain or be released or disposed of on any Lot or Unit or elsewhere within the Common Interest Community. Gasoline or fuel for an Owner's lawn mower, snowblower, and the like may be maintained on an incidental basis in an enclosed structure on a Lot or Unit in an amount not to exceed 10 gallons.

3.11 **Outside Burning; Fire Hazards.** No exterior fires shall be lighted or permitted on any property within the Common Interest Community except in a contained barbecue unit while attended and in use for cooking purposes or as a part of the operation and maintenance of a ditch or part thereof. No Lot or Unit Owner shall cause or permit any condition on his Lot or Unit which creates a fire hazard or is in violation of fire prevention regulations, or which would increase insurance rates for Association Property or for other Lot or Unit Owners. Notwithstanding the foregoing, the Declarant shall have the right to perform burning activities in connection with the development and marketing of the Common Interest Community.

3.12 **No Firearms or Hunting.** The discharge of firearms on any part of the Common Interest Community (including the Lots and Units) is expressly prohibited. Hunting on any part of the Common Interest Community (including the Lots and Units) is expressly prohibited.

3.13 **No Unsightliness.** All unsightly structures, facilities, equipment, objects, and conditions, sporting equipment (e.g., skis, snowboards, bikes, mountain bikes, kayaks, etc.), and snow removal, garden or maintenance equipment except when in actual use, shall be kept in an enclosed structure or in a screened area approved by the Design Review Committee. No laundry or wash shall be dried or hung outside any Unit or residence.

3.14 **Garbage and Trash and Compost Containers.** No refuse, garbage, trash, grass, shrub, or tree clippings, plant waste, compost, metal, bulk materials, scrap, rubbish, or debris of any kind shall be kept, stored, maintained or allowed to accumulate or remain on any Lot or Unit or on Association Property except temporarily within an enclosed structure approved by the Design Review

Committee, except that any approved container containing such materials may be placed next to the street on the designated morning of garbage collection and must be returned to its enclosed structure that same day. No garbage containers, trash cans or receptacles shall be maintained in an unsanitary or unsightly condition, and except when placed for pickup they shall not be visible from another Lot or Unit or Association Property. All such refuse, garbage, trash, plant waste, compost, metal, scrap materials, rubbish and debris shall be promptly removed from the Common Interest Community and shall not be burned thereon. Compost structures and containers may be placed on a Lot or Unit or on Association Property in locations and in containers approved by the Design Review Committee, provided that no such structure or container shall be larger than fifty-five (55) gallons. Notwithstanding the foregoing, the Declarant and/or the Association shall have the right to require that every Lot and Unit Owner purchase and use a designated garbage container.

3.15 Vehicle Parking, Storage, Operation and Repair.

(a) Passenger automobiles and one ton or smaller pick-up trucks may be parked on the public streets within the Common Interest Community except in those areas where parking is prohibited by signage.

(b) No boats, trailers, buses, motor homes, mobile homes, campers (on or off supporting vehicles), motorcycles, snowmobiles, recreational vehicles, all terrain vehicles, golf carts, trucks, industrial or commercial vehicles (both cabs or trailers), abandoned or inoperable vehicles (as defined below), or any other similar vehicles (excepting passenger automobiles and one ton or smaller pick-up trucks) shall be parked on a public street in the Common Interest Community, or parked or stored upon a Lot or Unit except within enclosed structures approved in advance by the Design Review Committee, and no motor vehicle of any kind shall be maintained, repaired, repainted, serviced or rebuilt on Association Property or on any Lot or Unit except within a completely enclosed garage which fully screens the sight and sound of the activity from the streets and other Lots and Units and Association Property. This restriction shall not prevent the non-commercial washing and polishing of vehicles and boats, together with activities normally incident thereto. No more than two (2) permitted vehicles (passenger automobiles and/or one ton or smaller pick-up trucks) shall be parked at any time in the driveway of any Lot or Unit, except during special occasions and then only for the duration thereof, and permitted vehicles shall not be parked in any location on a Lot except the driveway or an enclosed garage.

(c) Notwithstanding the foregoing, vehicles may be temporarily parked on driveways on Lots or Units and on public streets within the Common Interest Community for loading, delivery, service or emergency purposes, but only for the time required to accomplish such purpose, and as necessary on a daily basis for the construction, maintenance or servicing of Improvements within the Common Interest Community.

(d) An "abandoned or inoperable vehicle" shall mean any motorized vehicle which does not display a current motor vehicle license or which has not been driven under its own propulsion for a period of one (1) week or longer (excepting otherwise permitted vehicles parked by Lot or Unit Owners or Occupants on their Lot or Unit driveways while on vacation or during a period of illness), or which does not have an operable propulsion system within the vehicle.

(e) In the event that the Executive Board or the Design Review Committee shall determine that a vehicle is abandoned or inoperable, or is otherwise in violation of the

provisions of this Section 3.15, a written notice of violation describing said vehicle shall be personally delivered to the vehicle owner (if such owner can be reasonably ascertained) or shall be conspicuously placed upon the vehicle (if the owner cannot be reasonably ascertained), and if the offending vehicle is not removed within seventy-two (72) hours thereafter, the Executive Board or Design Review Committee (as the case may be) shall have the right to remove and store the offending vehicle, or cause the vehicle to be removed and stored, at the sole expense of the owner of the vehicle if the vehicle is located on a street, or the Owner of the Lot or Unit on which the vehicle is located, and to enter upon an Owner's Lot or Unit for such purpose, all without liability on the part of the Executive Board or the Design Review Committee.

(f) Snowmobiles, motorcycles, trail bikes, minibikes, dirt bikes, all-terrain vehicles, and similar motorized vehicles shall not be used or operated (but may be transported on trailers) within the Common Interest Community, except that (i) motorcycles properly licensed for operation on public roads may be used on public streets within the Common Interest Community. The Master Association shall have the authority to adopt Master Rules and Regulations governing the type and use of golf carts on streets within the Common Interest Community, subject always to City rule, ordinance or regulation.

3.16 **Animals.** Except as specifically permitted below or by the Master Rules and Regulations, no animals, reptiles, primates, fish, fowl or insects of any kind shall be kept, raised, bred, maintained or boarded within or upon any part of the Common Interest Community.

Each Lot and each Unit shall be entitled to a maximum of no more than two (2) dogs or cats (or one of each) and a reasonable number of other Household Pets, so long as such dogs, cats and other Household Pets are not kept for any commercial purpose, are not kept in unreasonable numbers, do not cause an unreasonable amount of noise or odor, or do not otherwise become a nuisance or threat to other Lot or Unit Owners or Occupants. Permitted dogs, cats and other Household Pets must be fenced or restrained at all times within the Owner's or Occupant's Lot or Unit (including Limited Common Elements), and shall not be permitted outside such Lot or Unit except when leashed and accompanied by the pet's owner or the owner's representative. All Household Pets shall be properly immunized and otherwise maintained and cared for as required by applicable laws.

The Owner of a Lot or Unit where a Household Pet is kept, as well as the legal owner of the pet (if not such Owner), shall be jointly and severally liable for any and all damage and destruction caused by the pet, and for any clean-up of the Owner's Lot or Unit and of streets, sidewalks, Association Property or other Lots or Units necessitated by such pet.

The Executive Board shall be responsible for enforcing the restrictions set forth in this Section 3.16, and shall have, and is hereby given, the right and authority to determine in its sole discretion that dogs, cats and other Household Pets are being kept for commercial purposes, or are being kept in unreasonable numbers, or are causing an unreasonable amount of noise or odor, or are otherwise a nuisance or threat to other Lot or Unit Owners or Occupants, or that a Lot or Unit Owner or Occupant is otherwise in violation of this Section 3.16, and to take such action or actions as it deems reasonably necessary to remedy the violation, including without limitation the levying of fines and/or Reimbursement Assessments as provided in Section 13.4 hereof. Also without limiting the generality of the foregoing, the Executive Board may require the owner or custodian of a dog that barks or howls excessively, or of a dog, cat or other Household Pet with other offensive habits or threatening behavior, to confine such animal indoors, or to permanently remove such animal from the Common Interest Community, and may adopt Master Rules and Regulations governing pets.

3.17 Restrictions on Equipment, Tanks, Antennae, Satellite Dishes, Etc. Heating, air conditioning (including swamp coolers), air movement, wind collection, or refrigeration equipment must be screened from the view of neighboring properties and must receive the prior written approval of the Design Review Committee. Solar power units meeting all governmental guidelines for residential uses may be incorporated into a residence or Unit if (a) the solar power unit meets the same architectural criteria as are applied to other Improvements within the Common Interest Community, and (b) the solar power unit is approved in advance by the Design Review Committee. No tanks of any kind, whether elevated or buried, shall be erected, placed or permitted to remain upon any Lot or Unit or Association Property except in compliance with applicable federal and state regulations, and then only with the prior written consent of the Design Review Committee. Any approved tank must be located underground or adequately concealed from view by fencing or screening approved by the Design Review Committee.

If a Lot or Unit Owner wishes to install an antenna to receive video programming, the Lot or Unit Owner shall notify the Design Review Committee in writing of the planned installation and the proposed location thereof at least ten days before the installation. The antenna installation and location shall comply with all fire, electrical and other applicable safety codes, and the installing Lot or Unit Owner shall to the extent feasible install the antenna in a location that minimizes its visibility from neighboring Lots, Units, Association Property, or Golf Land. The installing Lot or Unit Owner shall be obligated to paint the antenna so that it blends into the background against which it is mounted and to plant and maintain such reasonable landscaping as will screen the antenna, to the extent feasible, from neighboring Lots, Units, Association Property and the Golf Land. Provided always, that in the event that in any particular situation any of the foregoing requirements or restrictions cause an unreasonable delay or cost in the installation, maintenance or use of the antenna, or prevent the reception of acceptable quality signals, said requirements or restrictions shall be invalid as they apply to that particular situation.

Satellite dishes that exceed one meter in diameter, and MDS antennas that exceed one meter in diameter or diagonal measurement, shall not be allowed within the Common Interest Community. Mast antennas that extend higher than 12 feet above the roof line and antennas that are not used to receive video programming shall only be permitted within the Common Interest Community if they receive the prior written approval of the Design Review Committee as to design, location and screening from neighboring Lots, Units, Association Property, and the Golf Land.

3.18 Restrictions on Mining or Drilling. No property within the Common Interest Community shall be used for the purpose of mining, quarrying, drilling, boring, or exploring for, developing or removing water, geothermal resources, oil, gas, or other hydrocarbons, minerals, rocks, stones, gravel, or earth, except drilling, exploring for, removing or storing underground water by Declarant or the Master Association. Nothing contained herein shall be construed to limit the rights of the owners of mineral interests severed from the surface of any portion of the Common Interest Community prior to the recording of this Master Declaration.

3.19 Excavations; Natural Rock Features. No excavation or other earth disturbance shall be performed or permitted within the Common Interest Community except in connection with the construction of Improvements, and then only with the prior written approval of the Design Review Committee. Wherever possible significant natural rock features shall be preserved, and shall not in any event be disturbed unless the written approval of the Design Review Committee is first obtained. Upon completion of construction, openings in the ground shall be backfilled and compacted and all disturbed ground shall be graded and landscaped in accordance with the Design Guidelines and the requirements of the Design Review Committee.

3.20 **No Interference with Waterways or Drainage or Irrigation Systems.** No Lot or Unit Owner shall construct, install, maintain or permit any fence or other improvement or obstruction or plant trees or take any other action which damages or interrupts or interferes in any way with (i) the normal flow of water through and along waterways and water features within the Common Interest Community, (ii) any irrigation ditch, lateral, lake, pond or other water collection, storage or distribution system within or serving the Common Interest Community or the Golf Land, or (iii) normal drainage patterns within the Common Interest Community or the Golf Land, subject always to the rights of owners of ditches and other water rights and the requirements of the Design Review Committee. The Master Association shall have the authority to take such action as may be necessary to abate or enjoin any such damage or interference, and shall have the right to enter upon a Lot or Common Element for purposes of correcting or removing the same, and any costs incurred by the Master Association in connection with such abatement, injunctive or corrective activities shall be assessed to the responsible Lot or Unit Owner in the form of a Reimbursement Assessment.

3.21 **Lakes.** No swimming or boating or ice skating activities shall be conducted on any lakes or ponds within the Common Interest Community. Fishing may be allowed, but only in the discretion of the Master Association, and then subject to such Master Rules and Restrictions as may be adopted by the Executive Board.

3.22 **Fences Prohibited or Restricted.** Fences along or adjacent to the boundary or Lot line may be prohibited on some or all of the Lots, as identified on the Plat for such Lots or pursuant to the Design Guidelines or the Declaration of Easements. On any Lots where fences are permitted, the fence may only be constructed upon the prior written approval of the Design Review Committee and in conformance with the Design Guidelines or as provided in the Declaration of Easements. Privacy fences, security fences, and fences for screening purposes may also be prohibited. To the extent they are permitted, they shall also be approved by the Design Review Committee and constructed in conformance with the Design Guidelines or as provided in the Declaration of Easements. Declarant and/or the Association, through the Design Review Committee, shall have the right to designate the specific fence to be installed, if a fence is allowed, or shall have the right to prohibit the construction or maintenance of fences on those Lots which abut the Golf Land.

3.23 **Tree and Natural Shrub Preservation.** All Improvements within the Common Interest Community shall be located, designed, and constructed so as to preserve and protect trees and natural shrubs. In order to conserve the natural beauty of the area, no existing trees or natural shrubs (e.g., pine, cedar, piñon, other evergreens, gamble oak or sage brush) may be removed or trimmed except with the prior written approval of the Design Review Committee. This restriction shall not apply to the removal or trimming of dead or diseased vegetation, or to essential clearing by a Lot Owner in connection with the construction of a residence (but not other Improvements) on a site previously approved by the Design Review Committee. Any violation of this Section shall subject the offending Lot or Unit Owner to such penalties, fines and/or other conditions as the Design Review Committee considers appropriate, including without limitation the withdrawal or modification of previously granted development approvals, or the requirement that replacement trees or shrubs of equivalent or different size and type be planted and maintained by the Lot or Unit Owner.

3.24 **Use of Easement Areas; Utility Installation.** All easements shown on a Plat or Supplemental Plat covering any portion of the Common Interest Community have been created or reserved for the purposes indicated on such Plat and/or in Article 7 below. No Lot or Unit Owner may erect any structure of any type whatsoever in such easement areas, nor may an Owner or Occupant use the surface of such easement areas for any private use, other than landscaping which will not interfere

with the use of said easement by the Persons or entities for whose benefit it has been created or reserved and which receives the prior written approval of the Design Review Committee.

With respect to easements created for access and/or utility purposes either by the terms of this Master Declaration or any other Recorded agreement or on a Plat, any and all bona fide public and private utility service companies, special districts, and the Golf Owner where designated, shall have the right of access, ingress, egress, and use of such easement areas for the installation, operation and maintenance of utility facilities serving the Common Interest Community, and/or the Golf Land.

Except as to special street lighting or other aerial facilities which may be required by the City, no aerial utility lines or facilities of any type (except meters, risers, service pedestals and other surface installations necessary to maintain or operate appropriate underground facilities) shall be erected or installed within the Common Interest Community, whether upon Lots, Units, Association Property, easements, streets, or rights-of-way of any type, either by a utility company, a Lot Owner, a Unit Owner, the Master Association, or any other person or entity (including but not limited to any person owning or acquiring any part of the Common Interest Community) and all utility lines and facilities (including but not limited to water, sewer, gas, electricity, telephone, and cable tv) shall be buried underground. Provided, that during the construction of a residence on a Lot a temporary overhead power line may be installed which shall be promptly removed upon completion of construction.

3.25 Landscaping and Irrigation Regulations. No landscaping shall be performed on any Lot or Common Element or on Association Property unless a landscaping and irrigation plan therefor has received the prior written approval of the Design Review Committee, and all landscaping and irrigation shall comply with the Design Guidelines. A landscaping and irrigation plan for each Lot must be approved by the Design Review Committee before construction is commenced on the residence on that Lot. Any substantial change in the type or location of approved landscaping vegetation shall require the further approval of the Design Review Committee.

The planting of trees shall be strictly regulated by the Design Review Committee, and shall be limited in accordance with the Design Guidelines. The preservation of the natural high desert look of Redlands Mesa and the views of each Lot and Unit Owner shall be respected. If any trees planted on a Lot or Unit shall block significant views from a neighbor's Lot or Unit, whether or not the planting was approved by the Design Review Committee, the Lot or Unit Owner shall first attempt to prune the tree or trees, and if that is not sufficient the tree or trees shall be relocated or removed, as directed by the Design Review Committee. The Design Review Committee shall enforce this provision, and if the Design Review Committee fails to do so for a period of 30 days after an aggrieved Lot or Unit Owner has given the offending Owner and the Design Review Committee written notice of said aggrieved Owner's complaint, an aggrieved Lot or Unit Owner may enforce this provision by any available remedy at law or in equity pursuant to Section 12.4 hereof.

Subsurface and soils conditions may vary substantially from Lot to Lot in Redlands Mesa, ranging from sand to clay to rock. Over-watering under some soils conditions has the potential of causing damage to the Lot Owner's improvements as well as to neighboring properties. Each Lot Owner shall obtain a soils and subsurface conditions report from an independent qualified geotechnical firm before constructing any improvements on his Lot. The Lot Owner shall comply with all restrictions and recommendations contained in the report with respect to construction and irrigation methods and practices appropriate for the specific soils and subsurface conditions encountered on the Lot. Irrigation plans and systems proposed within each Lot shall also be in compliance with the Design Guidelines and approved by the Design Review Committee. By virtue of the fact that neither the Declarant nor the Master Association shall have the means to monitor irrigation systems installed

or actual irrigation practices, the assumption of risk, waiver and release provisions of Section 3.32 below shall in all cases apply notwithstanding approval of a landscaping and irrigation plan by the Design Review Committee.

Each Owner shall diligently maintain, trim, weed, cultivate, husband, protect, preserve and otherwise keep in a healthy and attractive condition the shrubs, trees, hedges, grass, planters, gardens and other landscaping upon the Owner's Lot or Unit, including, without limitation, the removal of dead and diseased branches and brush and the performance of other tasks necessary to remove or eliminate material which constitutes or creates a fire hazard or nuisance, and shall keep the Owner's Lot or Unit free of noxious weeds. Each Owner shall cooperate with the Master Association in its brush clearing and fire protection husbandry program for reduction of fire hazard within the Common Interest Community. Each Owner shall also maintain all paved, concrete and other synthetically surfaced areas within the Owner's Lot or Unit, including but not limited to, driveway and parking areas, in good condition and repair.

3.26 **Tennis Courts and Basketball Goals.** Tennis courts, and basketball goals, backboards and nets shall not be allowed unless they comply with the Design Guidelines and the approval of the Design Review Committee is first obtained.

3.27 **Swimming Pools, Spas, and Related Equipment.** Pools, spas or hot tubs may be erected, constructed or installed on Lots or Common Elements within the Common Interest Community, provided they comply with the Design Guidelines and receive the prior written consent of the Design Review Committee. If a pool, spa or hot tub is approved, all service equipment shall be fenced and located in either (a) a side yard between the front and rear boundaries of the residence, or (b) in the rear yard adjacent to the residence, and shall be adequately screened from any neighboring Lot or Unit, the Association Property, and all streets in the Common Interest Community.

3.28 **Signs and Advertising.** With the exception of one entry/identification sign per Lot during the period of actual construction on the Lot, which sign shall comply with the Design Guidelines, no sign, poster, billboard or advertising device of any kind shall be allowed or displayed upon any Lot or Unit or any Association Property within the Common Interest Community except: (a) such signs as may be used by the Declarant or builders approved by Declarant in connection with the development, marketing and sale of Lots or Units in the Common Interest Community; (b) such signs as may be required by legal proceedings, or the prohibition of which is precluded by law; (c) such signs as may be required for traffic control and regulation of Association Property; (d) neighborhood monuments (e.g., entrance and directional signs) which are compatible with the architecture of the area; (e) one security company sign; (f) one "For Sale" or "For Rent" sign on any Lot or Unit, and (g) one "Private Residence" sign on each boundary of a Lot or Unit that abuts on the Golf Land. All such signs must comply with the Design Guidelines.

3.29 **Camping and Picnicking.** No camping or picnicking shall be allowed on Association Property except in areas, if any, that may be designated for such purpose by the Master Association.

3.30 **No Individual Water Wells or Individual Sewage Disposal Systems.** No individual water wells, and no cesspools, septic tanks or other individual sewage disposal systems, shall be drilled, constructed, maintained or permitted to remain within the Common Interest Community, except such water and/or septic systems as may be installed by Declarant or Declarant's successor, assign or agent or the Master Association to serve the Common Interest Community.

3.31 **Regulation of Pesticides.** The Design Review Committee may adopt reasonable rules and regulations governing the use and application of pesticides, herbicides, fertilizers and fungicides within the Common Interest Community.

3.32 **Untreated Water Irrigation System, Ditches, Laterals, Ponds, and Water Use Obligations.** Declarant hereby discloses that certain irrigation systems, pipes, stub-outs, ditches, ditch laterals and ponds are currently located or may be constructed within ditch and irrigation easement areas located upon (a) certain Lots in the Common Interest Community, (b) upon Association Property, (c) within the Golf Land, and/or (d) within City-owned rights-of-way (collectively referred to as the "Untreated Water Irrigation System"). Declarant reserves the right, in its sole discretion, to extend said Untreated Water Irrigation System into Annexable Property, as shall be more specifically set forth in the Supplemental Declaration(s) therefor. Declarant further discloses that as of the date of this Master Declaration, the ownership of any and all water rights carried or to be carried in said Untreated Water Irrigation System is vested in the City of Grand Junction, and the City has no obligation to transfer ownership of any of such water rights to any Lot or Unit Owner or the Master Association. In no event shall the Master Association or any Lot or Unit Owner be entitled to the right of use of the Untreated Water Irrigation System or any water flowing through said Untreated Water Irrigation System, except pursuant to the payment of fees and compliance with the rules and regulations of the City of Grand Junction. Furthermore, in no event shall any Lot or Unit Owner be entitled to install irrigation facilities, to divert water from the Untreated Water Irrigation System or to make modifications to the Untreated Water Irrigation System for diversion purposes. In addition, in no event shall any Lot or Unit Owner or the Master Association obstruct or impede the flow of water through the Untreated Water Irrigation System.

The City's operation of the Untreated Water Irrigation System is solely pursuant to the Plan and Agreement between the City and the Ridges Metropolitan District, dated November 1, 1991, approved by the District Court of Mesa County in Case No. 26330.

As long as the City operates the Untreated Water Irrigation System, the City will provide untreated water to Redlands Mesa for irrigation purposes through the Untreated Water Irrigation System. To the extent possible, all irrigation within Redlands Mesa shall be accomplished with untreated water from the Untreated Water Irrigation System. Pressurized untreated irrigation water will be delivered to the Lots and Units through an irrigation riser valve assembly located within each Lot (hereinafter the "stub-out"), and will be available for irrigation on the Lot subject to the payment of fees and compliance with the City's rules and regulations. The City will also provide untreated water for the Master Association for purposes of irrigating Association property, and the Master Association will pay the monthly fee associated therewith. The Master Association is responsible for irrigating Association Property and the landscaping along certain public roadways.

The City will deliver the water un-metered to the Lot Owners at a fixed monthly fee, which monthly fee will be due and payable by a Lot Owner whether or not the Lot Owner actually uses any untreated water. The fixed monthly fee may be adjusted by the City from time to time. The City will be responsible for maintaining the portion of the Untreated Water Irrigation System located within public right-of-ways. Each Lot Owner will be responsible for maintaining the portion of the Untreated Water Irrigation System lying within the Lot, including the stub-out. The Master Association will be responsible for maintaining any portion of the system that may be owned by the Master Association.

All Owners hereby assume any risk involved with respect to the operation of the Untreated Water Irrigation System and hereby acknowledge that the Master Association, the Declarant, the City, and the Golf Owner shall not have any responsibility or liability of any kind to any Owner who incurs

any loss, damage, cost or expense arising from or relating to said Untreated Water Irrigation System, including, but not limited to, any loss or damage caused by over watering, failure of irrigation system components, flooding or the failure to deliver water. In accordance with the foregoing, such Owners, on behalf of themselves and their Occupants, successors and assigns, by acceptance of a deed acknowledge their assent to the provisions hereof, and hereby waive and release Declarant, the City, the Master Association, and the Golf Owner and each of their officers, directors, partners, trustees, members, agents, employees, stockholders, and contractors, from and against any and all obligations, claims, demands, liabilities, costs, expenses, attorneys' fees, or causes of action of any kind whatsoever, whether arising prior or subsequent to the date hereof, whether known or unknown, based upon, arising out of, or in any manner related to the Untreated Water Irrigation System.

3.33 Restoration of Improvements in the Event of Damage or Destruction. In the event of damage to or destruction of any Improvement on any Lot or Unit, the Owner thereof shall cause the damaged or destroyed Improvement to be promptly restored or replaced to its original condition or such other condition as may be approved in writing by the Design Review Committee, or the Owner shall cause the damaged or destroyed Improvement to be promptly demolished and the Lot or Unit to be suitably landscaped, subject to the approval of the Design Review Committee, so as to present a pleasing and attractive appearance. Such Improvements shall be repaired, restored or otherwise demolished and suitably landscaped within such reasonable time frame as may be established by the Design Review Committee.

3.34 Leases. Any Owner shall have the right to Lease his Lot or Unit under the following conditions:

(a) All Leases shall be in writing, and must cover the entire Lot or Unit (i.e., no Leases of bedrooms alone or otherwise covering less than all of the Lot or Unit shall be permitted).

(b) All Leases shall provide (i) that the terms of the Lease and the tenant's (Occupant's) use of the Lot or Unit shall be subject in all respects to the provisions of this Master Declaration or any pertinent Supplemental Declaration, and the Articles, the Bylaws, and the Master Rules and Regulations, and the Design Guidelines, (ii) that the Occupant has received and reviewed copies of said documents, and (iii) that any failure by the Occupant to comply with any of the aforesaid documents, in any respect, shall be a default by Occupant under the Lease and a default by Occupant and Owner under said documents which may be enforced against Occupant and/or Owner by the Executive Board.

(c) Each Owner shall notify the Master Association immediately upon the leasing of his Lot or Unit and shall provide the Master Association with a copy of the Lease and with the name and mailing address of the Occupant and the mailing address (if changed) of the Owner.

(d) Each Owner who leases a Lot or Unit shall be responsible for assuring compliance by the Occupant with all of the provisions of this Master Declaration, any pertinent Supplemental Declaration, the Articles, the Bylaws, the Master Rules and Regulations, and the Design Guidelines, and shall be jointly and severally responsible with the Occupant for any violations thereof by the Occupant.

(e) Each Lease shall expressly provide that the Master Association (via the Executive Board) shall have the right to give the Occupant written notice that the Occupant is

in violation of one or more of the documents listed in subsection (b) above, which notice shall specify a period of time (at least 5 days) in which the Occupant may cure the violation. If the violation continues uncured, or if it is repeated within the 3-month period following the date of the first notice, the Lease shall provide that the Owner gives to the Master Association an irrevocable power of attorney to act on the Owner's behalf to give such statutory notices to the Occupant and to take such other actions as may be necessary or appropriate to terminate the Lease and to evict the Occupant from the Premises. If a Lease does not contain such provisions, the Owner hereby irrevocably appoints the Master Association as its attorney-in-fact to act on its behalf as set forth herein.

(f) All legal fees and costs incurred by the Master Association in connection with a Lease shall be the joint and several liability of the Lot Owner and the Occupant and may be collected by legal action in which the prevailing party shall be entitled to an award of its reasonable costs and attorney's fees.

3.35 **Right of Entry.** During reasonable hours and upon reasonable notice to the Owner or Occupant of a Lot or Unit, any member of the Design Review Committee, any member of the Executive Board, and any authorized representative of either of them, shall have the right to enter upon and inspect any Lot or Unit, and the Improvements thereon, except for the interior portions of any occupied dwelling (which shall require the permission of the Owner or Occupant, except in case of emergency, when no notice or permission shall be required), for the purpose of ascertaining whether or not the provisions of the Master Declaration and of the Design Guidelines have been or are being complied with, or for the purpose of exercising any rights or performing any responsibilities (maintenance, repair, etc.) provided for in this Master Declaration or in any Supplemental Declaration, and such individuals shall not be deemed guilty of trespass by reason of such entry. For purposes of this Section 3.35, "emergency" shall mean circumstances posing an imminent threat of injury or damage to persons or property.

3.36 **Damage by Owners During Construction.** Each Owner is responsible for any damage caused to roads, streets, ditches, fences, trails, natural drainage courses, utilities, Association Property, or to other Lots, Units, or Improvements thereon, during the construction or alteration of Improvements upon the Owner's Lot or Unit, including without limitation damage caused by any construction vehicles using the roads or streets within the Common Interest Community. Damage shall include any degradation in the appearance or condition of such roads, streets, Association Property, or other Lots, Units, or Improvements. The responsible Owner shall promptly repair and clean up any such damage, at its sole expense. Each Owner shall also be responsible for any damage caused by utility cuts in roads, washouts and runoff damage caused by failure to properly install culverts, and to promptly repair any such damage. If the Owner fails to repair any such damage within 10 days following receipt of a written notice from the Executive Board requesting the same, the Executive Board shall have the right to perform such repairs on behalf of the Owner, and to levy a Reimbursement Assessment upon the Owner and its Lot or Unit to recover the costs thereof.

3.37 **Restrictions on Resubdivision, Property Restrictions, and Rezoning.** Except as expressly permitted in this Master Declaration or in a Supplemental Declaration by which additional property is annexed to the Common Interest Community, (i) no Lot or Unit shall ever be further subdivided or replatted by an Owner into smaller lots or parcels or units, (ii) no portion less than all of any such Lot or Unit, nor any easement or divided interest therein, shall be conveyed, transferred or encumbered by the Owner, and (iii) no Lot or Unit may be combined with any other Lot or Unit nor the boundary lines adjusted between any two Lots or Units.

(a) Declarant reserves the right to subdivide a Lot or Unit, or to subdivide a multi-family Lot or Block, or to condominiumize a multi-family structure, or to combine two Lots or Units owned by Declarant, or to adjust or remove boundary lines between Lots or Units owned by Declarant, provided any necessary City approvals are obtained, all Declaration and Plat amendments required by the Act and/or local land use laws are prepared, executed and Recorded, and any necessary reallocation of Allocated Interests of the Owners is accomplished. The specific requirements for condominiumizing a multi-family structure or subdividing a multi-family Lot or Parcel are set forth in subsections (b) and (c) below. Similarly, the Owner of a Lot on which a multi-family structure has been legally constructed shall have the right to subdivide or condominiumize the same upon compliance with such requirements. In the case of the subdivision or condominiumization of a Lot or other multi-family structure into two or more Lots or Units, each Lot or Unit created thereby shall constitute a Lot or Unit for purposes of reallocation of Common Expense liability and voting interests. In the case of the combination of two or more Lots or Units, no change in Allocated Interests shall occur. In other words, if two Lots or Units are combined, the resulting Lot or Unit shall continue to constitute two (2) Lots or Units for assessment and voting purposes. All costs relating to the foregoing activities shall be the sole responsibility and obligation of Declarant, or of the Owner performing the same. Declarant's rights under this subsection (a) shall terminate upon the first to occur of (i) the date which is 30 years after the Recording of this Master Declaration, or (ii) Declarant's relinquishing of these rights by a Recorded instrument.

(b) Condominiumization of a multi-family structure shall be accomplished by the recording of a Map signed by the City and the owner that depicts the structure in three dimensions and delineates the Units and the General and Limited Common Elements, and a Declaration or Supplemental Declaration signed by the owner and, in the case of a structure being condominiumized by a Lot Owner other than Declarant, approved by the Master Association, which (i) creates a common interest community for the Units depicted on the Map, (ii) establishes the Unit designations for said Units and amends the Allocated Interests to reflect the creation of the new Units, (iii) creates General and Limited Common Elements and allocates the ownership thereof in undivided interests between the Unit Owners in some reasonable manner, (iv) establishes the rights and obligations of the Unit Owners with respect to the insuring, use, maintenance, repair and replacement of the Common Elements, (v) allocates the common costs and expenses associated with the condominium between the Unit Owners in accordance with their undivided interests in the Common Elements, and (vi) establishes a Subassociation or other procedure for assessing, billing and paying such common expenses and for collecting the same (including interest) from a delinquent Owner. Master Association Regular and Special Assessments shall, of course, continue to be allocated in accordance with the Allocated Interests.

(c) Subdivision of a multi-family Lot or Block shall be accomplished by the recording of an additional Plat signed by the City and the Declarant or other Lot Owner that subdivides the Lot or Block into two or more Lots along the centers of the common walls in the multi-family structure, and a Supplemental Declaration or a Declaration Amendment and Agreement (Multi-Family) signed by the Declarant or other Lot Owner and approved by the Master Association (and by any lienholder of record) which (i) establishes the Lot designations for the new Lots created by the additional Plat and amends the Allocated Interests to reflect the creation of the new Lots, (ii) establishes the respective rights and obligations of the Lot Owners with respect to the insuring, use, maintenance, repair and replacement of common structural elements and common utility systems of the multi-family structure, (iii) provides for a reasonable allocation between said Lot Owners of the common costs and expenses associated

with the multi-family structure, and (iv) establishes a Subassociation or other procedure for assessing, billing and paying for such common expenses and for collecting the same (including interest) from a delinquent Owner. Master Association Regular and Special Assessments shall, of course, continue to be allocated in accordance with the Allocated Interests.

(d) The boundaries between adjoining Lots or Units may also be adjusted or removed (*i.e.* the Lots or Units combined) by the Owner(s) thereof other than Declarant, if (i) the written consent of the Executive Board is first obtained, in the sole discretion of the Executive Board, (ii) all applicable regulations and codes are complied with and all necessary City approvals are obtained, (iii) the proposed adjustment or removal does not violate the terms of any document evidencing a security interest in the subject Lots or Units, and (iv) all Declaration and Plat amendments required by the Act and/or local land use laws are prepared, executed and Recorded. All costs relating to such activity (including the attorneys' fees and costs incurred by the Executive Board in reviewing and acting upon the matter) shall be the sole responsibility and obligation of the Owner(s) applying for the same.

(e) No Owner of a Lot or Unit shall grant or convey any easement rights affecting any portion of the Lot or Unit without the prior written consent of the Executive Board.

(f) With the exception of Multi-Family Declarations, no further covenants, conditions, restrictions or easements shall be Recorded by any Owner (except Declarant in the exercise of its reserved rights) or other Person against any Lot or Unit without the provisions thereof having been first approved in writing by the Executive Board for consistency with the Master Declaration, any applicable Supplemental Declaration, and the general plan of development for the Common Interest Community. Any covenants, conditions, restrictions or easements Recorded without such approvals being evidenced thereon shall be null and void. This provision does not apply to Mortgages.

(g) No application for rezoning of any Lot or Unit, and no application for any variance or special use permit for any Lot or Unit, shall be filed with any governmental authority by any Owner (except Declarant in the exercise of any reserved rights) unless the proposed use of the Lot or Unit has first been approved in writing by the Executive Board and the proposed use otherwise complies with the Master Declaration and any applicable Supplemental Declaration.

3.38 **House Size Regulations.** Single-family residences in the Common Interest Community shall be subject to the following size limitations:

(a) Houses on Lots in Block 1, Filing 1, shall contain a minimum of 1,800 square feet and a maximum of 8,000 square feet of interior living space measured from the interior surfaces of the walls, excluding garages, basements, patios and covered porches. Lots 35, 36, 37, 38 and 39 in Block 1, Filing 1, shall not be subject to the foregoing 1,800 square foot minimum house size requirement.

(b) Houses on Lots in Blocks 4, 5 and 6, Filing 1, shall contain a minimum of 2,000 square feet and a maximum of 8,000 square feet of interior living space measured from the interior surfaces of the walls, excluding garages, basements, patios, covered porches, and any walkouts that may be approved by the Design Review Committee. Lots 11 and 12 in Block 5, Filing 1, may contain a maximum of 10,000 square feet of interior living space.

3.39 **Health, Safety and Welfare.** In the event any uses, activities, and facilities within the Common Interest Community are deemed by the Executive Board to be an unreasonable annoyance or nuisance, or to adversely affect the health, safety or welfare of Owners or Occupants, the Executive Board may amend the Master Rules and Regulations in order to appropriately restrict and regulate such uses, activities or facilities within the Common Interest Community. Such rules shall be consistent with the purposes and provisions of this Master Declaration.

3.40 **Implementation and Variances.** The Executive Board may implement the restrictions set forth in this Article 3, or otherwise restrict and regulate the use and occupancy of the Common Interest Community and the Lots and Units by reasonable Master Rules and Regulations of general application adopted by the Executive Board from time to time. The Executive Board may, in its sole discretion and in extenuating circumstances, grant variances from any of the restrictions set forth in this Article 3 (excepting any such restrictions with respect to which the Design Review Committee has the authority to grant variances under Section 4.20 below), if the Executive Board determines, in its discretion, (a) either (i) that a particular restriction creates a substantial hardship or burden on an Owner or Occupant, which hardship or burden was not caused by said Owner or Occupant, or (ii) that a change of circumstances since the Recordation of this Master Declaration has rendered such restriction obsolete, and (b) that the activity permitted under the variance, in the judgment of the Executive Board, will not have any material adverse effect on the Owners and Occupants of the Common Interest Community (including neighboring Lots and Units) and is consistent with the high quality of living intended to be promoted hereby throughout the Common Interest Community. When an Owner applies for a variance, the Board must give at least ten (10) days advance written notice of the variance hearing, and of the nature of the variance requested, postage prepaid, by certified mail, return receipt requested, to all Owners of Lots or Units that are situated within a radius of 300 feet of the Lot or Unit for which the variance is sought, at the current addresses for such Owners reflected in the Master Association files. The applying Owner must provide the Committee with an accurate list of the Owners to be so notified. If the foregoing notice requirements are complied with, it is not necessary that the Owners actually receive the notice that is mailed to them, such notices being deemed received upon mailing.

No variance shall conflict with the Outline Development Plan for Redlands Mesa or with ordinances or regulations of the City. If a variance from the Outline Development Plan or City laws or regulations is also required in connection with a matter for which a variance is desired hereunder, it shall be the Owner's responsibility to obtain such City variance before submitting a variance application to the Executive Board.

3.41 **Declarant Activities.** Nothing contained in this Master Declaration is intended or shall be construed to prevent, regulate or delay or to restrict in any way Declarant's right and ability to develop, improve, maintain, repair, regulate, operate, administer, manage, market, sell, lease, encumber or dispose of the Common Interest Community, the Lots, the Units, the Association Property, the Annexable Property, additional unspecified real estate, or any part thereof, including the right to construct Improvements, place construction or office trailers, and install signs thereon, all in the complete discretion of Declarant.

ARTICLE 4 DESIGN REVIEW COMMITTEE

4.1 **Establishment of Design Review Committee.** The Master Association shall have a Design Review Committee, which shall consist of a minimum of three (3) members, each of whom shall either be (i) a representative of the Declarant, or (ii) an Owner or Occupant of a Lot or Unit in

the Common Interest Community. All members of the Design Review Committee shall be appointed and removed from time to time by the Executive Board in its discretion, and shall serve for such term as may be established by the Executive Board from time to time. A member may be removed by the Executive Board at any time upon written notice, without cause. Subject to the three (3) member minimum, and to the membership criteria set forth above, the Executive Board may increase or decrease the size of the Design Review Committee from time to time in its discretion. On behalf of the Master Association, the Executive Board shall hire a local architect to consult with and advise the Design Review Committee, which architect shall be paid by the Master Association as a Common Expense. The Executive Board may also hire or appoint a secretary for the Design Review Committee, and shall provide appropriate compensation for any such secretarial services.

4.2 **Establishment of Subcommittees.** The Design Review Committee shall have the right but never the obligation to establish one or more subcommittees to perform one or more of the functions of the Design Review Committee. For purposes of this Master Declaration, all references to the Design Review Committee shall also refer to any subcommittee established by the Design Review Committee. The procedures for establishment of subcommittees, the rights and duties thereof, and the limitations thereon may be established and adopted by the Design Review Committee from time to time, in its discretion.

4.3 **Meetings and Action of Committee.** The Design Review Committee shall meet from time to time as necessary to perform its duties hereunder. The Design Review Committee may from time to time, by resolution in writing adopted by a majority of the members, designate a Committee Representative (who may but need not be one of its members) to take any action or perform any duties for or on behalf of the Design Review Committee, except the granting of approval for any Improvements and the granting of variances. The action of such Committee Representative within the authority of such Committee Representative shall constitute the action of the Design Review Committee. A majority of the members of the Design Review Committee shall constitute a quorum of the Committee. Actions of the Committee may be taken (without a meeting) by the written consent of a majority of the members thereof, or at a meeting at which a quorum is present in person or by proxy, by the vote of a majority of such members constituting the quorum, but in no event less than two (2) members.

4.4 **Compensation of Committee Members.** In the discretion of the Executive Board, all or some members of the Design Review Committee may be entitled to reasonable compensation from the Master Association for services rendered, together with reimbursement for reasonable expenses incurred by them in the performance of their duties hereunder. Such compensation, if any, shall be set by the Executive Board from time to time.

4.5 **Records of Actions.** The Design Review Committee shall keep a permanent record of all actions of the Design Review Committee.

4.6 **Approvals in Annexed Areas.** The Design Review Committee shall also be responsible for reviewing and approving all proposed Improvements on Lots and Units within properties hereafter annexed to the Common Interest Community, unless a different reviewing body or procedure is established in the Supplemental Declaration which annexes such property.

4.7 **Design Guidelines.** The Design Review Committee has established an initial set of rules, procedures, standards, guidelines and requirements, including without limitation architectural, design and development standards and guidelines, which shall govern the review and approval or disapproval of proposed Improvements within the Common Interest Community, and other matters

provided for therein (the "Design Guidelines"). The Design Review Committee may make such amendments and additions to the Design Guidelines as the Committee deems necessary or appropriate from time to time to accomplish the purposes of (and as are not in conflict with) this Master Declaration and of any pertinent Supplemental Declaration and to ensure the orderly and attractive development of the Common Interest Community. Upon its adoption, each such amendment shall be provided to the Executive Board. The Design Guidelines (as they may be amended from time to time) are hereby incorporated herein and shall be deemed to be a part of this Master Declaration and shall be binding on the Common Interest Community, and on all Lot and Unit Owners, Occupants, Members or other Persons as if expressly set forth herein. A copy of the current Design Guidelines shall, at all times, be a part of the Master Association's records. The Design Review Committee, in its sole discretion, shall have the right and authority to determine the existence of any violation of the Design Guidelines or of any approvals granted or other decisions made by, or other requirements of, the Design Review Committee, which determinations shall be binding on the Owners.

4.8 Design Review Fee. The Design Review Committee shall adopt, and may from time to time amend, a design review fee schedule which shall apply to requests for the original construction of a residential improvement, and for each subsequent request for approval of an Improvement on a Lot or Unit including remodels, renovations or other alterations of the original approval, except that no fee shall be charged for any proposed alteration or addition to an approved landscaping plan. The design review fee schedule shall be set forth in the Design Guidelines. The applicable fee must accompany each request for approval of any proposed Improvement. The Design Review Committee shall not take any action on a request for approval until all required fees are paid in connection therewith.

4.9 Registration of Builders. The construction or renovation of Units or of residential improvements on Lots within the Common Interest Community shall be accomplished only by general contractors who are "Registered Builders" as provided in this Section 4.9. Subcontractors need not be Registered Builders. In order to register as a Registered Builder, a contractor must submit to the Design Review Committee a signed "Registered Builder Statement" which recites as follows:

- (a) That the builder is a licensed general contractor in Grand Junction, Colorado;
- (b) The names and addresses of the last 5 clients for whom the builder has constructed homes or other structures or to whom the builder has sold a home;
- (c) That the builder expressly authorizes each of said clients to speak to representatives of the Design Review Committee and/or the Owner regarding the builder's performance for that client, and further authorizes the Design Review Committee to pass on any such performance information to the Owner;
- (d) That the builder will provide the Owner with a current financial statement, if requested by the Owner;
- (e) That the builder will allow the Owner to obtain a credit report on the builder, if requested by the Owner; and
- (f) That the builder will furnish the Owner with such other information about the builder as the Owner may reasonably request.

Upon delivery of a Registered Builder Statement containing all of the required information to the Design Review Committee, a contractor shall be deemed to be a Registered Builder

for purposes hereof. Before commencing work on the construction or renovation of a Unit or a residential improvement on a Lot, the Registered Builder shall obtain a Builder's Risk Insurance Policy covering all Improvements to be constructed on the Lot or Unit, with the benefits payable to the Owner, and shall deliver copies of the Policy to the Design Review Committee and to the Owner. In the case of minor renovations where the Design Review Committee does not consider such Policy necessary, the Design Review Committee may waive this requirement, in its sole discretion.

4.10 **Design Review and Construction Process.** Every Owner proposing to make Improvements on its Lot or Unit must comply with the design review and construction procedures that are set forth in the Design Guidelines.

4.11 **Submission of Plans, Specifications and Data; Time Frame for Approval.** Prior to commencement of work to accomplish any proposed Improvements, the Owner proposing to make such Improvements shall submit to the Design Review Committee such descriptions, surveys, plot plans, excavation plans, drainage plans, grading plans, site plans, roof plan, elevation drawings, construction plans, landscaping plans, irrigation plans, fencing and wall plans, specifications, and samples of materials and colors as the Design Review Committee shall reasonably request showing among other things the nature, kind, shape, bulk, massing, articulation, height, width, dimensions, color, materials, and location of the proposed Improvements. The Owner shall also inform the Design Review Committee of the identity of the Owner's proposed Builder, who shall be a Registered Builder. All submissions shall conform to and be in accordance with the Design Guidelines. The Owner shall be entitled to receive a receipt for the same from the Design Review Committee or its authorized agent. The Design Review Committee may require submission of additional plans, specifications, or other information prior to approving or disapproving the proposed Improvements. Until receipt by the Design Review Committee of all required information and materials in connection with the proposed Improvements and Builder, the Design Review Committee may postpone review of the application.

From and after the date on which the Design Review Committee receives all required information and materials in connection with the proposed Improvements and Builder, the Design Review Committee shall have 30 calendar days in which to approve, approve with conditions, or deny the application. An approval shall be evidenced by a Certificate of Approval as provided in Section 4.12 below. In the discretion of the Committee, one or more meetings may be held with the Owner during that period. If the Design Review Committee fails to approve or deny the application within said 30-day period, the final plans and specifications submitted to the Committee by the Owner shall be deemed approved.

4.12 **Criteria for Approval or Disapproval; Certificate of Approval.** The Design Review Committee shall approve any proposed Improvements, and shall issue a Certificate of Approval therefor (which grants approval to an identified set of plans, subject to any conditions to approval), only if it determines in its reasonable discretion that the Outline Development Plan for Redlands Mesa and the Design Guidelines have been complied with; that the proposed Improvements are in compliance with all applicable provisions of this Master Declaration and any Supplemental Declaration; that the proposed Improvements will not be detrimental to the value or enjoyment of the surrounding areas in the Common Interest Community; that the siting, design, bulk, height, appearance and overall aesthetic impact of the proposed Improvements will be in harmony with the surrounding areas in the Common Interest Community; that the proposed Improvements will enhance the quality, wholesomeness, and attractiveness of the Common Interest Community and the enjoyment thereof by Lot and Unit Owners; that the upkeep and maintenance of the proposed Improvements will not become a burden on the Master Association; and that in the case of construction or renovation of a residential dwelling, the work will be performed by a Registered Builder. The Design Review

Committee may condition its approval of any proposed Improvements upon the making of such changes therein as the Design Review Committee may deem reasonably appropriate, and may require that architectural embellishments (or details) and /or additional landscaping be performed on the subject Lot or Unit. In all cases, the Design Review Committee must issue a Certificate of Approval before an Owner or Registered Builder applies to the City for a Building Permit for the proposed Improvements.

The approval by the Committee of any Improvement shall in no event imply or require that such approval will be granted again in the future for the same or a similar Improvement, and the Committee shall have complete discretion, consistent with the standards and criteria contained herein and in the Design Guidelines, to grant or deny such approval in each instance on the merits of the particular application or proposal and considering the circumstances surrounding the same.

4.13 **Decisions of Committee.** Decisions of the Design Review Committee shall be made in accordance with the procedures established in the Design Guidelines and shall be binding on all parties.

4.14 **Completion of Work After Approval.** Following the approval of any proposed Improvements by the Design Review Committee (and identification of the Registered Builder, where required), the proposed Improvements shall be completed by the Lot or Unit Owner (using the Registered Builder): (a) as promptly and diligently as possible but in no event in excess of the time periods set forth below; (b) in compliance with the Design Guidelines and with all applicable laws, regulations and codes, (c) in strict conformance with all plans and specifications and other materials furnished to and approved by the Design Review Committee and with the Certificate of Approval; and (d) in accordance with any and all conditions imposed by the Design Review Committee. All Improvements approved by the Design Review Committee shall be completed, a Certificate of Compliance shall be obtained in accordance with Section 4.17 below, and all construction equipment, materials and debris shall be removed, (i) within 18 months from the date of approval of such Improvements by the Design Review Committee, or (ii) within such other time period as the Design Review Committee may prescribe. Provided, however, that any and all landscaping and/or gardening approved by the Design Review Committee which is related to the initial construction of a residence on a Lot shall be completed no later than 180 days immediately following the issuance of the Certificate of Occupancy for such residence. Failure to comply with the terms and conditions of this Section 4.14 shall constitute noncompliance with the terms and provisions of this Master Declaration and the Design Review Committee and/or the Executive Board shall have the right to invoke all rights and remedies provided to them hereunder, including but not limited to, the right to seek injunctive relief and/or to impose fines and penalties.

4.15 **Right to Inspect.** Any member or authorized consultant of the Design Review Committee or of the Executive Board, or any authorized officer, employee or agent of the Master Association, may (but shall not be obligated to) at any reasonable time enter upon any Lot or Unit, without being deemed guilty of trespass, in order to inspect Improvements constructed or being constructed on such Lot or Unit, to ascertain whether such Improvements have been or are being built or changed in compliance with the Design Guidelines, the approvals granted by the Design Review Committee, and this Master Declaration.

4.16 **Notice of Completion; Inspection of Work; Correction of Defects.**

(a) Upon the completion of any Improvements (excepting the related landscaping) for which plans and specifications have been approved by the Design Review Committee, the Owner or the Registered Builder shall submit to the Committee a written Notice of

Completion, on a form to be provided by the Committee, which Notice shall certify that the Improvements have been completed in accordance with all plans, specifications and other materials furnished to and approved by the Committee, the Certificate of Approval, any conditions imposed by the Committee, and with the Design Guidelines. Until receipt of such Notice, the Committee shall not be deemed to have any notice regarding completion of the Improvements.

(b) Within twenty-one (21) days following receipt of the Notice of Completion, the Design Review Committee or its duly authorized representative shall inspect the Improvements. If the Committee finds that the Improvements have not been completed as set forth in the Notice of Completion, it shall notify the Lot or Unit Owner in writing of such noncompliance within said twenty-one (21) day period, specifying the particulars of noncompliance, and shall require the Owner to remedy the same. If for any reason other than the Lot or Unit Owner's act or neglect, the Committee fails to notify the Owner of any noncompliance or to issue to the Owner a Certificate of Compliance pursuant to Section 4.17 below prior to the expiration of said twenty-one (21) day period, the Improvements shall be deemed in compliance if the Improvements were, in fact, completed as of the date of the Notice of Completion and the Owner or Registered Builder may proceed to request a Certificate of Occupancy from the City.

(c) If upon the expiration of thirty (30) days from the date of such notification of non-compliance the Lot or Unit Owner shall have failed to remedy such noncompliance, the Design Review Committee shall notify the Executive Board in writing of such failure. Thereupon, the Executive Board (and its duly authorized representatives), at the Board's option, may enter upon the Lot or Unit at any reasonable time after notice to the Owner, without being deemed guilty of trespass, and remove the noncomplying Improvement or otherwise remedy the noncompliance, and the Owner shall reimburse the Master Association, upon demand, for all expenses, including interest on monies expended and attorneys' fees, incurred in connection therewith. If such expenses are not repaid by the Owner to the Master Association within thirty (30) days following delivery of a written demand therefor to the Owner, the Executive Board may levy a Reimbursement Assessment against such Owner and the Owner's Lot or Unit for all such costs and expenses. The right of the Master Association to remedy or remove any noncompliance shall be in addition to all other rights and remedies which the Master Association may have at law, in equity, or under this Master Declaration or any Supplemental Declaration, and the Lot or Unit Owner shall have no claim for damages or otherwise on account of the entry upon the property and remedying or removal of the noncomplying Improvement.

4.17 Certificate of Compliance. When the Design Review Committee is satisfied that the Improvements have been completed in accordance with all plans, specifications and other materials furnished to the Design Review Committee, the Certificate of Approval, any conditions imposed by the Committee, and with the Design Guidelines, it shall issue to the Owner a Certificate of Compliance with respect to said Improvements. Upon receipt of such Certificate, but not before, the Owner or Registered Builder may apply to the City for a Certificate of Occupancy. No newly-constructed residence on a Lot shall be occupied until a Certificate of Compliance has been issued therefor by the Design Review Committee and a Certificate of Occupancy has been issued therefor by the City.

4.18 Improvements Must Conform to Approvals. No building, fence, wall, structure, landscaping or other Improvement of whatever type shall be commenced, constructed, erected, placed, installed, located, maintained or removed within the Common Interest Community, nor shall there be

any additions or changes to the exterior of any residence or other structure or Improvement upon a Lot or Unit or the landscaping, grading or drainage thereof, including without limitation, the painting or staining (other than painting or staining with the same color and type of paint or stain as previously existed) of exterior walls, patio covers and fences, except in accordance with plans and specifications therefor which have been submitted to and approved by the Design Review Committee and in compliance with the Design Guidelines.

4.19 Committee Power to Grant Variances. The Design Review Committee may grant variances from any of the restrictions set forth in this Master Declaration or any Supplemental Declaration or the Design Guidelines pertaining to proposed Improvements and the criteria therefor, including restrictions upon height, size, floor area, setbacks, location or placement of structures, or similar restrictions, when (i) unique circumstances not created by the Lot or Unit Owner, such as topography, natural obstructions, or aesthetic or environmental considerations would otherwise result in substantial hardship or burden which is not suffered by other similarly-situated Lots or Units, or (ii) when a change of circumstances since the Recording of this Master Declaration has rendered such restriction obsolete, and (iii) in either case, when the Design Review Committee determines that the activity allowed by the variance will not have any material adverse effect on the Owners and Occupants of the Common Interest Community (including neighboring Lots or Units) and is consistent with the high quality of living intended to be promoted hereby throughout the Common Interest Community. When an Owner applies for a variance, the Committee must give at least ten (10) days written notice of the variance hearing, and of the nature of the variance requested, postage prepaid, by certified mail, return receipt requested, to all Owners of Lots or Units that are situated within a radius of 300 feet of the Lot or Unit for which the variance is sought, at the current addresses for such Owners reflected in the Master Association files. The applying Owner must provide the Committee with an accurate list of the Owners to be so notified. If the foregoing notice requirements are complied with, it is not necessary that the Owners actually receive the notice that is mailed to them, such notices being deemed received upon mailing.

All variances that are granted by the Design Review Committee must be evidenced in writing, must specify the Lot or Unit for which the variance is granted and the unique circumstances or change in circumstances justifying the variance, and must be signed by at least a majority of the members of the Committee. If any such variance is granted, no violation of the covenants, conditions and restrictions contained in this Master Declaration or any Supplemental Declaration or the Design Guidelines shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of such a variance shall not operate to waive any of the terms and provisions of this Master Declaration or of any Supplemental Declaration or the Design Guidelines for any purpose except as to the particular property and particular provision hereof covered by the variance. A copy of each variance request and approval, or denial, will be kept on file at the Master Association offices.

The granting of a variance in a particular instance shall in no event imply or require that such a variance will be granted again in the future in a similar situation, and the Committee shall have complete discretion, consistent with the standards and criteria contained herein and in the Design Guidelines, to grant or deny a variance in each instance on the merits of the particular application and considering the circumstances surrounding the same.

No variance shall conflict with the Outline Development Plan for Redlands Mesa or with ordinances or regulations of the City. If a variance from the Outline Development Plan or City laws or regulations is also required in connection with a matter for which a variance is desired hereunder, it shall be the Owner's responsibility to obtain such City variance before submitting a variance application to the Design Review Committee.

4.20 **Nonliability for Approval or Disapproval of Plans and Specifications, for Issuance of Certificates of Approval or Compliance, or for Registration of Builders.** The criteria for Design Review Committee approval of plans and specifications are set forth in Section 4.12 above. The Design Review Committee shall not be responsible for reviewing plans and specifications with respect to engineering design or for compliance with zoning, building ordinances, environmental laws, or any other applicable laws or regulations. By its approval of any such plans and specifications, and by its issuance of a Certificate of Approval, neither the Design Review Committee, the members thereof, the Master Association, any Member, the Executive Board nor the Declarant assumes or shall have any liability or responsibility with respect to engineering design or for compliance with zoning, building ordinances, environmental laws, or any other applicable laws or regulations, or for any defect in any Improvement constructed from such plans and specifications. Neither the Design Review Committee, any member thereof, the Master Association, the Executive Board nor the Declarant shall be liable to any Lot or Unit Owner, Occupant or other Person for any injury, damage, loss or prejudice suffered or claimed on account of (a) the approval or disapproval of any plans, drawings or specifications, whether or not defective, and/or the issuance of a Certificate of Approval, (b) the construction or performance of any work, whether or not pursuant to approved plans, drawings and specifications, (c) the issuance of a Certificate of Compliance, or (d) the development, or manner of development of any property within the Common Interest Community. The approval of plans and specifications by the Design Review Committee (including the issuance of a Certificate of Approval), and/or the issuance of a Certificate of Compliance by the Design Review Committee, shall not under any circumstances constitute or be deemed to be a representation or warranty that the plans, specifications or completed Improvements comply with applicable laws, resolutions, ordinances or regulations, including but not limited to, zoning ordinances and building codes and environmental laws.

Likewise, Builders shall register with the Design Review Committee in the manner set forth in Section 4.9 above and in the Design Guidelines. **By registering a Builder, the Design Review Committee does not represent or warrant, either expressly or by implication, and hereby disclaims any representations or warranties, that the Registered Builder will in fact complete the Improvements on schedule, within the Owner's budget, or in a competent and workmanlike manner, or that the Registered Builder is or will remain financially sound, and the Lot and Unit Owners assume all risks regarding such matters.** Neither the Design Review Committee, the members thereof, the Master Association, any Member, the Executive Board nor the Declarant shall be liable to any Lot or Unit Owner, Occupant or other Person for any injury, damage, loss or prejudice suffered or claimed on account of (a) the registration of any Builder, (b) defects or delays in the work performed by a Registered Builder, (c) financial difficulties experienced by a Registered Builder, and/or (d) any other problems arising from an Owner's use of a Registered Builder.

4.21 **Enforcement.** The requirements and provisions of this Article 4 and/or of the Design Guidelines shall be enforceable in accordance with the rights and procedures set forth in Section 12.4 of this Master Declaration.

ARTICLE 5 ASSOCIATION PROPERTY

5.1 **Use and Enjoyment of Association Property.** With the exception of Limited Common Areas, and except as otherwise provided in this Master Declaration, in any Supplemental Declaration, or in the Master Rules and Regulations, each Owner shall have the non-exclusive right to use and enjoy Association Property in common with all other Owners. This right to use and enjoy Association Property shall extend to each Owner, Occupant, and the family members, guests and invitees of each

Owner, and to such other users as may be authorized by this Master Declaration or by the Executive Board from time to time, and shall be appurtenant to each Lot or Unit, subject at all times to the provisions of this Master Declaration (including Declarant's reserved rights hereunder), any applicable Supplemental Declaration, the Articles, Bylaws, and the Master Rules and Regulations. No Owner or Occupant shall place any structure or store or leave any materials or personal property upon Association Property, nor shall any Owner or Occupant engage in any activity which will temporarily or permanently impair free and unobstructed access to all parts of the Association Property by all Owners. Use of the Association Property is also subject to any applicable terms of the Declaration of Easements.

With respect to Limited Common Areas, each Owner and Occupant of a Lot designated by Declaration or Plat for the use of such Limited Common Area shall have the non-exclusive right to use and enjoy the same in common with all other and Occupants of Lots so designated, for all purposes for which the Limited Common Area was created, subject to any Master Rules and Regulations relating thereto.

5.2 Master Association May Regulate Use of Association Property. The Master Association, acting through the Executive Board, shall have the right and authority to regulate the use of Association Property by the promulgation, enforcement and interpretation from time to time of such Master Rules and Regulations relating thereto as the Master Association considers necessary or appropriate for the protection and preservation of Association Property and the enhancement of the use and enjoyment thereof by Owners and Occupants and other authorized users, subject always to any rights or interests created by the Golf Course Easement.

The Master Association, acting through the Executive Board, may for good cause suspend the right of any person to use and enjoy Association Property, including the right of a Member who or which is delinquent in the payment of any Assessments, and the right of any Member or other authorized user who is in violation of the terms and provisions of this Master Declaration or any Supplemental Declaration, the Articles, Bylaws, Master Rules and Regulations, Design Guidelines or the terms and provisions of any approvals granted by the Design Review Committee.

5.3 Master Association to Maintain and Improve Association Property. The Master Association, its agents and employees, shall maintain and repair, snowplow as necessary, and otherwise manage the Association Property (including the Limited Common Areas), including, but not limited to, any Improvements, landscaping, paths, trails, parking areas, drives, and recreational and other facilities located thereon. The Master Association may construct, alter and remove such Improvements and landscaping upon Association Property as the Master Association in its discretion considers necessary, desirable or appropriate from time to time, and may do all such other and further acts which the Executive Board deems necessary or appropriate to preserve, protect and enhance the Association Property and the beauty thereof in accordance with the general objectives for the Common Interest Community reflected in this Master Declaration. Separate bids shall be let for the maintenance of Limited Common Areas so that the costs thereof can be assessed exclusively to the Lots benefited thereby.

5.4 No Partition of Association Property. No Owner or other Person shall have any right to partition or to seek the partition of Association Property or any part thereof.

5.5 Owner Liability for Owner or Occupant Damage to Association Property. Each Owner shall be liable to the Master Association for any damage to Association Property or for any expense, loss or liability suffered or incurred by the Master Association in connection with Association Property

arising from (a) the negligence or willful misconduct of such Owner or of any Occupant, agent, employee, family member, guest or invitee of such Owner, or (b) any violation by such Owner or any Occupant, agent, employee, family member, guest or invitee of such Owner of any law, regulation, or code, including without limitation any environmental law, or of any provisions of this Master Declaration, any Supplemental Declaration, or the Master Rules and Regulations, relating to Association Property. Each Owner shall indemnify, defend and hold the Master Association harmless from any loss, damage, expense or liability arising from the circumstances described in subsections (a) or (b) immediately above. The Master Association shall have the power to levy and collect a Reimbursement Assessment against a Lot or Unit Owner to recover the costs, expenses, damages, losses or liabilities incurred by the Master Association as a consequence of any such negligence, willful misconduct or violations.

5.6 Damage or Destruction to Association Property. In the event of damage to or destruction of Association Property, including Improvements thereon, by fire or other casualty, the Master Association shall repair or replace the same in accordance with the provisions of Section 9.18 below. Repair, reconstruction, or replacement of Association Property shall be accomplished under such contracting and bidding procedures as the Master Association shall determine are appropriate. If insurance proceeds available to the Master Association on account of damage or destruction exceed the cost of repair, reconstruction, and replacement, the Master Association may use the same for future maintenance, repair, improvement, and operation of Association Property or for any other use deemed appropriate by the Executive Board.

5.7 Condemnation of Association Property. If any Association Property or part thereof or interest therein is taken under exercise of the power of eminent domain or by purchase in lieu thereof, the portion of any award in condemnation or the price payable for the deed in lieu that is attributable to the Association Property taken or purchased shall be paid to the Master Association. The Master Association shall have the exclusive right to participate in such condemnation proceedings and to represent the interests of all Owners and Occupants and other Persons therein. Any award or funds received by the Master Association shall be held by the Master Association for the purposes stated in Section 5.6 above or as a reserve for future maintenance, repair, reconstruction, or replacement of Association Property or may be used for Improvements or additions to or operation of Association Property or for such other uses as may be deemed appropriate by the Executive Board. Except as may otherwise be provided by the Act, no Owner or other Person shall be entitled to participate as a party or otherwise in any condemnation proceedings nor to receive any proceeds therefrom.

5.8 Title to Association Property Upon Dissolution of Master Association. In the event of dissolution of the Master Association, the Association Property shall, to the extent permitted by law and reasonably possible, be conveyed or transferred to an appropriate public, governmental or quasi-governmental agency or organization or to a nonprofit corporation, association, trust, or other organization, to be used, in any such event, for the common benefit of Owners for the purposes for which the Association Property was held by the Master Association. If the foregoing is not possible, the Association Property, shall be sold or disposed of and the proceeds from the sale or disposition shall be distributed to Owners in proportion to each Owner's Allocated Interest in the Common Expenses of the Master Association.

5.9 Mechanic's Liens on Association Property. Declarant shall be responsible for the release of mechanics' liens filed with respect to Association Property, or any part thereof, if such liens arise from labor performed or materials furnished at the instance of Declarant, its agents, contractors or subcontractors. Likewise, the Master Association shall be responsible for the release of mechanics' liens filed with respect to Association Property, or any part thereof, if such liens arise from labor

performed or materials furnished at the instance of the Master Association, its directors, officers, agents, contractors or subcontractors. No labor performed or materials furnished with respect to a Lot or Unit at the instance of the Lot or Unit Owner shall be the basis for filing a lien against Association Property. No labor performed or materials furnished with respect to Association Property at the instance of the Executive Board shall be the basis for filing a lien against any Lot or Unit.

**ARTICLE 6
DECLARANT'S RESERVED RIGHTS**

Declarant hereby expressly reserves to itself and its successors and assigns the following described rights, which include development rights and special Declarant rights, any one or more of which rights may be exercised, in the sole and absolute discretion of Declarant, at any time and from time to time during the period commencing upon the Recording of this Master Declaration in Mesa County and ending on the date of termination of such rights established under Section 6.14 below. It is expressly understood that Declarant shall not be obligated to exercise any of these reserved rights, and that no consent shall be required from any Owner, Mortgagee, or the Master Association for the effective exercise of any of these reserved rights.

Except as limited by this Article 6, such reserved rights may be exercised upon or in connection with all or any portion of the Common Interest Community, the Annexable Property, and/or the additional unspecified real estate referred to in Section 6.7 below. Such rights may be exercised with respect to different parcels of said real estate at different times, and in connection therewith Declarant hereby states that (i) no assurances are made regarding the boundaries of said different parcels or with respect to the order in which such parcels may be subjected to the exercise of these reserved rights, even if a reference to a phase or phasing appears in a legal description, Plat, Outline Development Plan, or other agreement relating to the property, and (ii) if a particular reserved right is exercised in any portion of the real estate subject to that reserved right, that reserved right is not required to be exercised in all or any portion of the remainder of that real estate.

The reserved rights hereinafter set forth shall be prior and superior to any other provisions of this Master Declaration or of any Supplemental Declaration, and may not be amended, modified, terminated or otherwise altered in any way without the express prior written consent of Declarant. All conveyances of Lots and Units and other portions of the Common Interest Community hereafter made, whether by Declarant or otherwise, shall be deemed and construed to reserve to Declarant and/or to grant to Declarant all of the rights reserved by and to Declarant in this Article 6 and elsewhere in this Master Declaration or in any Special Declaration, even though no specific reference to such rights appears in the conveyancing instruments. Nothing in this Article 6 shall limit or impair any other rights granted or reserved to Declarant by other provisions of this Master Declaration or of any Supplemental Declaration.

The following rights are hereby reserved to Declarant and its successors and assigns:

6.1 **Construction of Improvements.** The right, but not the obligation, to construct additional Improvements on Association Property at any time and from time to time for the improvement and enhancement thereof for the benefit of the Master Association, the Lot and Unit Owners, or some of them, and/or pursuant to the Declaration of Easements. Furthermore, the right throughout the Common Interest Community to complete Improvements indicated on the Plat filed with this Master Declaration, and on any Supplemental Plats filed with any Supplemental Declarations, as such Plats and Declarations may be amended from time to time. Furthermore, the right to construct and complete Improvements required by the terms of the Development Improvements

Agreement Recorded 17 July, 2000 in Book 2730 at Page 23 in the Office of the Clerk and Recorder of Mesa County, Colorado, and by the terms of any other such Development Improvements Agreements that may hereafter be executed by Declarant in connection with annexations to the Common Interest Community, as said Agreement or Agreements may be amended from time to time. Furthermore, the right to create, grant and/or use and enjoy additional non-exclusive easements, and to relocate existing platted or other easements, upon or across any portion of the Common Interest Community (including Lots, and Common Elements, but excepting Building Envelopes), as may be reasonably required for the construction by Declarant of the above-described Improvements or the effective exercise by Declarant of any of the other reserved rights described in this Article 6.

6.2 **Sales, Marketing and Management.** The right to construct, locate or operate, and to maintain upon, and to remove from, any part of the Common Interest Community including Lots or Units owned by Declarant and Association Property, in the discretion of Declarant, and in such number, size and location as may be reasonably required by Declarant in connection with the completion of Improvements, the management of the development, and/or the promotion, marketing, sale or rental of Lots or Units, the following:

- (a) Sales offices, management offices, and/or construction offices, and structures containing or relating to the same, including without limitation mobile homes, office trailers and construction trailers. Such offices, to the extent they are not situated on a Lot or within a Unit, are hereby declared to be personal property of the Declarant and shall in any case be removable by Declarant or its successors or assigns promptly upon the Declarant or its successors or assigns ceasing to be a Lot or Unit Owner;
- (b) Signs identifying and advertising the Common Interest Community and the Lots and/or Units therein, or relating to development or construction thereon;
- (c) Model residences constructed or to be constructed on Lots, or model Units;
- (d) Parking areas and facilities, and lighting, necessary or desirable in the marketing of the Common Interest Community and the Lots and Units;
- (e) Employees in offices; equipment; vehicles; and marketing and construction materials.

Together with the right to attract, invite or bring prospective purchasers of Lots and/or Units into the Common Interest Community at all times, and to permit them to use and enjoy the Association Property.

6.3 **Merger.** The right to merge or consolidate the Common Interest Community with another common interest community of the same form of ownership.

6.4 **Declarant Control of Master Association.** The right to appoint or remove any Executive Board member or officer of the Master Association, as more specifically set forth in Section 8.5 below, but only for and during the "Period of Declarant Control of Master Association" as defined in said Section 8.5.

6.5 **Annexation of Additional Properties.** The right to annex to the Common Interest Community all or any part of the Annexable Property. Each Owner of a Lot or Unit hereunder hereby grants to Declarant the right to annex all or any part of the Annexable Property to the Common

Interest Community and to modify such Owner's Allocated Interests accordingly. Alternatively, Declarant shall have the right and is authorized to develop portions of the Annexable Property and/or to convey, lease or mortgage portions of the Annexable Property to such third party or parties as Declarant may deem appropriate, without annexing them to the Common Interest Community, whether for purposes consistent with this Master Declaration or otherwise. Declarant makes no assurances that all or any portion of the Annexable Property will be added to the Common Interest Community and Declarant reserves the right to annex all or any portion of the Annexable Property to the Common Interest Community in any order it deems appropriate in its sole and absolute discretion.

6.6 Annexation Procedure. The annexation of additional real property to the Common Interest Community shall be accomplished by the Recording by Declarant with the Clerk and Recorder of Mesa County of a Supplemental Declaration containing a legal description of the land area to be added to the Common Interest Community and amending this Master Declaration accordingly, together with a Supplemental Plat or Map thereof. The Supplemental Declaration shall assign an identifying number to each new Lot or Unit created thereby, and shall reallocate the Allocated Interests of all Lot and Unit Owners in the Common Interest Community in accordance with the definition of Allocated Interests contained in this Master Declaration. In no event shall any annexation increase the number of Lots and Units in the Common Interest Community beyond the five hundred seventy-eight (578) Lot and/or Unit maximum stated in the Recitals to this Master Declaration. The Supplemental Declaration shall also describe any Association Property (including Limited Common Areas) thereby created, and any Common Elements and any Limited Common Elements thereby created, and in the case of Limited Common Elements, the Supplemental Declaration (or the associated Map) shall designate the Unit(s) to which each is allocated.

The annexation of the Annexable Property may be accomplished by successive Supplemental Declarations, in no particular or pre-established order, and may provide that property annexed thereby (the "Annexed Property") is phased so that it is made subject to this Master Declaration at different times. Upon Recording of a Supplemental Declaration, the Annexed Property described therein shall be subject to all of the covenants, conditions, restrictions, limitations, reservations, exceptions, equitable servitudes, and other provisions set forth in this Master Declaration, except to the extent specifically stated in the Supplemental Declaration or as modified thereby. Any such Supplemental Declaration may impose on the Annexed Property described therein additional covenants, conditions, restrictions, limitations, reservations, exceptions, equitable servitudes, and other provisions than those set forth in this Master Declaration, taking into account the unique and particular aspects of the Annexed Property covered thereby and of the proposed development thereof. Furthermore, Declarant shall have the right to reserve in such Supplemental Declaration any development rights that Declarant considers necessary or appropriate, provided that such provision shall not extend the termination date for the exercise of Declarant's development rights as set forth in Section 6.14 below. A Supplemental Declaration may provide for a Subassociation of Owners within the Annexed Property described in the Supplemental Declaration and for the right of the Subassociation to assess such Owners for common expenses unique to those Owners.

6.7 Annexation of Additional Unspecified Real Estate. The right to annex additional, unspecified real estate to the Common Interest Community to the fullest extent permitted by the Act. In the event that Declarant elects to annex any such additional unspecified real estate, Declarant shall annex such property to the Common Interest Community in accordance with the provisions of Section 6.6 above.

6.8 **Withdrawal Rights and Procedure.** The right at any time and from time to time to withdraw from the Common Interest Community (and any annexations thereto) any Declarant-owned Lot or Lots, Unit or Units, or Association Property.

Withdrawal may only be accomplished by the recording by Declarant of an amendment to this Master Declaration or any Supplemental Declaration affected by the withdrawal, and an amendment to the Plat or any Supplemental Plat affected by the withdrawal. Upon the recording of such amendments, the withdrawn Lots, Units and/or Association Property shall no longer be part of the Common Interest Community or subject to this Master Declaration or any applicable Supplemental Declaration in any way.

Each Declarant-owned Lot or Unit, and each Declarant-owned Association Property, is hereby described and declared to be a separate portion of real estate that is subject to this right of withdrawal, and Declarant expressly reserves the right to withdraw one or more Declarant-owned Lots or Units and/or all or a portion of any Declarant-owned Association Property from the Common Interest Community. Once a Lot or Unit has been conveyed to a Lot or Unit Owner other than Declarant, that portion of the real estate is no longer subject to this right of withdrawal. Likewise, once an Association Property has been conveyed to the Master Association, that portion of the real estate is no longer subject to this right of withdrawal.

The withdrawn property shall be subject to whatever easements, if any, may be reasonably necessary for access or utility service to, or operation or management or use or enjoyment of, the Common Interest Community or any part thereof. Similarly, the owner(s) of the withdrawn property shall have whatever easements, if any, are reasonably necessary for access or utility service to or for use or enjoyment of the withdrawn property over and across special district and/or Association Property within the Common Interest Community. At the time any withdrawal of real estate is accomplished, Declarant shall record whatever documents are necessary to establish such reciprocal easements in the Mesa County records.

6.9 **Effect of Expansion or Contraction.** In the event any real property is annexed to the Common Interest Community as provided herein, or if any real property is withdrawn from the Common Interest Community as provided herein, the definitions used in this Master Declaration shall be automatically expanded or contracted to encompass and refer to the Common Interest Community as expanded or contracted, e.g., "Common Interest Community" shall mean the real property described herein plus any additional real property annexed thereto and/or minus any real property withdrawn therefrom; similarly, "Association Property" and "Lots" and "Units" shall mean and include those areas as described herein as well as or less those so designated on any Supplemental Declaration or Supplemental Plat (or any amendment to a Declaration or Plat) relating to any real property which is annexed or withdrawn pursuant to this Article 6. Association Property shall also mean and include all properties located from time to time within the Annexed Property that fall within the definition of Association Property contained in this Master Declaration, less any Association Property removed by withdrawal. References to this Master Declaration shall mean this Master Declaration as so supplemented by any Supplemental Declaration and any Supplemental Plat, or as amended. Every Owner of a Lot or Unit in the area annexed to the Common Interest Community shall, by virtue of ownership of such Lot or Unit and upon recordation of the Supplemental Declaration annexing such property to the Common Interest Community, be a member of the Master Association and, except as may be otherwise provided in the Supplemental Declaration, shall be entitled to the same rights and privileges and subject to the same duties and obligations as any other Master Association Member. Regular Assessments for Lots or Units within the Annexed Property shall commence as of the date of the Recording of the Supplemental Declaration and shall be prorated as of such date.

The recording of amendments to the Master Declaration and Plat, whether in the form of Supplemental Declarations and Supplemental Plats or otherwise, which reallocate the Allocated Interests in the Common Interest Community, shall automatically:

(a) Vest in each existing Lot and Unit Owner the reallocated Allocated Interests appurtenant to the Owner's Lot or Unit; and

(b) Vest in each existing Mortgagee a perfected security interest in the reallocated Allocated Interests appurtenant to the encumbered Lot or Unit.

6.10 **Subdivision of Blocks or Lots or Units.** Declarant shall have and hereby reserves the right to subdivide any Declarant-owned Block or Lot or Unit located within the Common Interest Community to create additional Lots or Units, Association Property, and/or streets, subject to the maximum number of Lots and Units set forth in the Recitals to this Master Declaration; provided, however, that such subdivision is consistent with the Outline Development Plan for Redlands Mesa or that said Outline Development Plan is amended if necessary, and that the subdivision is accomplished in compliance with City subdivision requirements. Upon the subdivision of any Block or Lot or Unit in accordance with the terms and conditions contained herein, the Allocated Interests of all Owners shall be reallocated in accordance with the definition of Allocated Interests contained in this Master Declaration.

6.11 **Transfer of Additional Property to Master Association.** The right, but not the obligation, to transfer additional real and personal property, and Improvements thereon, to the Master Association from time to time in furtherance of this Master Declaration.

6.12 **Other Reserved Development Rights.** Subject to compliance with any applicable City requirements, the right with respect to all or any Declarant-owned portion of the Common Interest Community (including the Lots and Units) to (a) create Association Property (including Limited Common Areas); (b) create additional Lots or Units, subject to the maximum set forth in the Recitals to this Master Declaration; (c) subdivide Lots or Units as set forth in Section 6.10 above; (d) combine Lots or Units; (e) convert Lots or Units into Association Property; (f) convert Association Property into Lots or Units; (g) create Common Elements and/or Limited Common Elements; (h) reconfigure Lots, Units, streets, and/or Association Property; and (i) amend the Outline Development Plan. Additionally, in order to effectively exercise the rights reserved to Declarant under this Article 6, the right to amend this Master Declaration (without the consent of Owners, Mortgagees or the Master Association being required) for purposes of (aa) complying with or qualifying for any required federal or state registration of the project, (bb) satisfying title insurance requirements, or (cc) bringing any provision or provisions of the Master Declaration into compliance with the Act.

6.13 **Transfer of Declarant's Reserved Rights.** Any one or more rights created or reserved for the benefit of Declarant under this Article 6 or elsewhere in this Master Declaration or in any Supplemental Declaration may be transferred to any Person by an instrument describing the right or rights transferred and Recorded in Mesa County. Such instrument shall be executed by the transferor Declarant and the transferee. The provisions of Section 38-33.3-304 of the Act shall apply to any transfer of special Declarant rights.

6.14 **Termination of Declarant's Reserved Rights.** With the exception of Declarant's right to appoint or remove Executive Board members and officers of the Master Association, which is addressed in Section 8.5 below, the rights reserved to Declarant in this Article 6 shall automatically terminate and expire upon the first to occur of (i) the date which is thirty (30) years after the

Recording of this Master Declaration, or (ii) Declarant's relinquishment and surrender of such rights by Recorded instrument. Declarant may from time to time relinquish and surrender one or more but less than all of the reserved rights, in which event the unrelinquished reserved rights shall remain fully valid and effective for the remainder of the term thereof. The Master Association may extend the time period for exercise of a development right, or reinstate a lapsed development right, subject to whatever terms, conditions and limitations the Master Association may impose on the subsequent exercise of the development right. The extension or renewal of a development right and any terms, conditions and limitations shall be included in an amendment executed by Declarant or the owner of the real estate subject to the development right and the Master Association.

6.15 Owner Review, Acceptance and Waiver of Rights Re: Outline Development Plan and Declarant's Reserved Rights. Each Owner, by its acceptance of a deed to a Lot or Unit, acknowledges that the Owner has carefully reviewed and understands the Outline Development Plan (as it may be amended from time to time) and the Declarant's reserved rights as set forth in this Article 6 or elsewhere in this Master Declaration, that the Owner accepts and approves such matters and appreciates any potential impacts that the implementation of the Outline Development Plan and/or the exercise of such reserved rights may have on the Owner's Lot or Unit, and expressly waives any rights the Owner may have to object to or to interfere in any way with the implementation of such Plan or the exercise of such rights.

6.16 Declarant as Attorney-in-Fact For Owners. Each Owner, by its acceptance of a deed or other conveyance vesting in the Owner an interest in a Lot or Unit in the Common Interest Community, does hereby irrevocably constitute and appoint Declarant (with full power of substitution) as said Owner's attorney-in-fact, in said Owner's name, place and stead, to take any and all actions and to execute and deliver any and all instruments as may be necessary or appropriate to Declarant's exercise of the various rights reserved to Declarant under this Article 6 or elsewhere in this Master Declaration or in any Supplemental Declaration, specifically including without limitation Declarant's reserved right to use all existing easements within the Common Interest Community or to create, grant, use and/or replat and relocate additional or existing easements across any portion of the Common Interest Community excepting platted Building Envelopes.

ARTICLE 7 EASEMENTS

7.1 Easements for Incidental Encroachments. If any portion of an Improvement approved by the Design Review Committee encroaches in its approved location upon an Association Property, including any future encroachments arising or resulting from the repair or reconstruction of an Improvement subsequent to its damage, destruction or condemnation, a valid easement on the surface and for subsurface support below such surface and for the maintenance of same, so long as it stands, shall and does exist for such incidental encroachment.

7.2 Blanket Utility and Drainage Easement Over Streets and Over Association Property. There is hereby created, granted and reserved to the Master Association, its agents, employees and assigns, and to the City a perpetual, non-exclusive blanket easement over, across, upon and under all platted streets in the Common Interest Community and all Association Property for the construction, installation, operation, monitoring, management, maintenance, repair, removal and replacement of utilities and utility lines, irrigation lines and systems and water features, drainage systems, pipes, wires, circuits, conduits, meters, facilities and systems for the benefit of the Common Interest Community or any part thereof, including but not limited to drainage, domestic water, irrigation water, sewer, gas, telephone, electricity, cable TV and other master TV and communication systems, if any,

together with an easement for access, ingress and egress to accomplish such purposes, and together with the right to grant any such easement rights to utility companies. The Master Association or other person or entity exercising such utility and drainage easement rights shall be obligated to restore, reseed, replant and/or re-landscape the surface of the disturbed area to as close to its original condition as possible, as promptly as possible following completion of any utility or drainage work.

7.3 Master Association Administrative Easement Over Streets and Over Association Property. There is hereby created, granted and reserved to the Master Association, its agents, employees and assigns, a perpetual, non-exclusive easement over, across, upon and under all platted streets in the Common Interest Community and all Association Property and a right to use such streets and Association Property for purposes of enabling the Master Association to perform the duties and functions which it is obligated or permitted to perform pursuant to this Master Declaration.

7.4 Declarant Easement Over Streets and Over Association Property. There is hereby created, granted and reserved to Declarant and its successors and assigns a non-exclusive easement over, across, upon and under all platted streets in the Common Interest Community and all Association Property (including without limitation all easements benefiting the Master Association), including a right of access, ingress and egress thereto, and a right to use such streets and Association Property, and each and every part thereof, for all purposes reasonably related to (a) Declarant's development, improvement, maintenance, management, marketing and sale of the Common Interest Community and all portions thereof, including any annexations thereto, and/or (b) Declarant's exercise and implementation of the rights reserved to Declarant under this Master Declaration or any Supplemental Declaration, and/or (c) the discharge by Declarant of any of its obligations under this Master Declaration or any Supplemental Declaration or under the Development Improvements Agreement recorded in Book 2730 at Page 23 and any other Development Improvements Agreement that may be executed by Declarant in connection with properties annexed to the Common Interest Community, or any other Declarant obligations relating to the Common Interest Community. Declarant's rights with respect to this easement shall terminate upon the first to occur of (i) the date which is thirty (30) years after the Recording of this Master Declaration, or (ii) Declarant's relinquishment of all or a portion of this easement right by Recorded instrument.

7.5 Ditch Easements. There are hereby created, granted and reserved for the use and benefit of the owners from time to time of any irrigation systems, ditches, ditch laterals, ponds or other water features or water storage facilities or improvements that may exist from time to time within the Common Interest Community (and of the water rights therein) perpetual, non-exclusive easements within the Ditch Easements shown on the Plat or any Supplemental Plat, and if not shown on a Plat then along the courses of said ditches and laterals and in the locations of said systems, features, ponds and facilities, as they may be realigned or relocated from time to time, subject to the specific provisions set forth in easement grants for any such facilities and/or on a Plat.

7.6 Utility and Drainage Easements. There are hereby created, granted and reserved for the use and benefit of the Declarant, the City of Grand Junction, the Master Association, the Golf Owner, and appropriate public utilities, perpetual, non-exclusive easements over, upon, across and under those portions of the Common Interest Community that are designated "Utility Easement" or "Drainage Easement" on the Plat or any Supplemental Plat. Utility Easements may be used for the installation, operation, maintenance, repair, removal or replacement of underground utilities and irrigation water lines and related surface facilities. Drainage Easements may be used for the installation, operation, maintenance, repair, removal or replacement of drainage systems and facilities. Except as may otherwise be provided in any Development Improvements Agreement between Declarant and the City or in any other separate agreement between Declarant and a utility supplier, the party

causing the disturbance shall be obligated to restore, repair, reseed and/or relandscape any area disturbed by the exercise of these easement rights to as close to its original condition as possible, as promptly as possible following the completion of any work within a Utility or Drainage Easement.

7.7 **Fence and Landscaping Easements.** There are hereby created, granted and reserved for the use and benefit of the Declarant and the Master Association perpetual, non-exclusive "Fence and Landscaping Easements" along the entire common boundary between Lots or Common Elements and the Golf Land, said Fence Easements being 5 feet in width and lying entirely within the Lots or Common Elements, for purposes of constructing, planting, maintaining and repairing fences and/or landscaping along portions of the Golf Land, in the sole discretion of the Design Review Committee. Authorized fencing and/or landscaping shall be constructed, planted and maintained by the Master Association or, if approved by the Design Review Committee in each instance, by the Lot or Unit Owner affected thereby.

7.8 **Berm Maintenance Easements.** There are hereby created, granted and reserved for the use and benefit of the Declarant and the Master Association perpetual, non-exclusive "Berm Maintenance Easements" in such locations as may be shown on a Supplemental Plat, for purposes of maintaining, repairing and improving berms, and for the control of vegetation within the easements, as may be deemed necessary or appropriate from time to time by Declarant or the Association.

7.9 **Non-Disturbance Easements.** There are hereby created, granted and reserved for the benefit of the Master Association perpetual, non-exclusive "Non-Disturbance Easements" over and upon those portions of certain Lots that are designated as "Non-Disturbance Areas" on the Plat, or any Supplemental Plat. No excavation, construction or disturbance of any kind shall take place within these Non-Disturbance Areas, and they shall be cordoned off during construction on the Lot for protection.

7.10 **Multi-Purpose Easements.** There are hereby created, granted and reserved for the use and benefit of the Declarant, the City of Grand Junction, the Master Association, the Golf Owner, and appropriate public utilities, perpetual, non-exclusive easements over, upon, across and under all "Multi-Purpose Easements" shown and designated on the Plat or any Supplemental Plat, for the installation, operation, maintenance, repair and replacement of underground utility lines and appurtenances thereto including, but not limited to, electric lines, cable TV lines, natural gas pipelines, sanitary sewer lines, water lines, telephone lines, irrigation water lines, and are further granted to the City of Grand Junction for the installation, operation, maintenance, repair and replacement of traffic control facilities, street lighting, street trees and grade structures.

7.11 **Easements for Benefit of Golf Land.** The Declaration of Easements establishes certain non-exclusive easements over, across and upon portions of the Common Interest Community for the use and benefit of the Golf Land, including without limitation Grading Easements, No Build Easements, and Golf Cart Path Easements. Said easements shall be used for the purposes and in the manner provided in the Declaration of Easements.

7.12 **Blanket Emergency Services Easement.** There is hereby created, granted and reserved for the use and benefit of all police, sheriff, fire protection, ambulance and other similar emergency agencies or persons, now or hereafter serving the Common Interest Community and its Owners and Occupants, a perpetual, non-exclusive blanket Emergency Services Easement over, upon, along and across all streets, properties and areas within the Common Interest Community, for use in the lawful performance of their duties.

7.13 **Easements Deemed Created.** All conveyances of Lots and Units and Association Property hereafter made, whether by Declarant or otherwise, shall be deemed and construed to grant and reserve all of the easements referred to in this Article 7 and elsewhere in this Master Declaration and in any Supplemental Declaration, even though no specific reference to such easements appears in the conveyancing instruments.

7.14 **Restrictions on Owners in Easement Areas.** Owners of Lots and Units that are subject to any easements created by this Master Declaration, a Supplemental Declaration, or a recorded Plat, or to any existing ditch easements, shall acquire no right, title or interest in any cables, conduits, mains, lines, or other equipment or facilities or improvements that may be installed upon, over or under the easement area by a beneficiary of said easement rights. Moreover, Owners and Occupants of Lots and Units that are subject to any such easements are hereby prohibited from constructing any improvements upon the easement areas, altering or obstructing the flow of any water or drainage thereon, or landscaping the same, in any manner that might interfere with the full and proper exercise of said easement rights by any beneficiary thereof. Finally, said Owners and Occupants are hereby further prohibited from violating any of the restrictions relating to the use of the easement areas as may be set forth in this Master Declaration or in any Supplemental Declaration. Any Owner or Occupant violating any of these restrictions shall be obligated to remove the offending improvement or landscaping and to restore the surface of the area to its original condition, or otherwise to remedy the violation, at the Owner's cost and expense, within 30 days following a written request therefor from any easement beneficiary. If said Owner or Occupant fails to comply with the request in a timely manner, the Master Association shall have the right to enter upon the Owner's Lot or Unit to perform the necessary work and may assess the costs thereof against the Owner and the Owner's Lot or Unit in the form of a Reimbursement Assessment.

7.15 **Recorded Easements and Licenses.** In addition to the easements described in this Article 7 and elsewhere in this Master Declaration, the recorded easements and licenses appurtenant to or included in the Common Interest Community are set forth on Exhibit B attached hereto and made a part hereof by this reference.

ARTICLE 8 MASTER ASSOCIATION

8.1 **Master Association.** The Master Association has been formed as a Colorado nonprofit corporation under the Colorado Revised Nonprofit Corporation Act to manage the affairs of the Common Interest Community. The Master Association shall serve as the governing body for all of the Owners and Occupants for the protection, improvement, alteration, maintenance, repair, replacement, administration and operation of Association Property, the levying and collection of Assessments for Common Expenses and other expenses of the Master Association, and such other matters as may be provided in this Master Declaration, any Supplemental Declaration, the Articles, Bylaws, and Master Rules and Regulations. The Master Association shall not be deemed to be conducting a business of any kind, and all funds received by the Master Association shall be held and applied by it on behalf of the Owners in accordance with the provisions of this Master Declaration, any Supplemental Declaration, the Articles and the Bylaws.

8.2 **Master Association Executive Board.** The affairs of the Master Association shall be managed by an Executive Board. The number, term, and qualifications of the members of the Executive Board shall be fixed in the Articles of Incorporation or the Bylaws. A quorum shall be deemed present throughout any meeting of the Executive Board if persons entitled to cast at least fifty percent (50%) of the votes on the Executive Board are present at the beginning of the meeting or grant

their proxy as provided in C.R.S. Section 7-128-205(4). With the exception of matters that may be discussed in executive session, as set forth in Section 38-33.3-308(3-7) of the Act, all regular and special meetings of the Executive Board or any committee thereof shall be open to attendance by all Members of the Master Association or their representatives. Without limiting the generality of the foregoing, no Master Rule or Regulation may be validly adopted during an executive session. Agendas for meetings of the Executive Board shall be made reasonably available for examination by all Members of the Master Association or their representatives.

The Executive Board shall have all of the powers, authority and duties granted or delegated to it by the Act, this Master Declaration, any Supplemental Declaration, the Articles or Bylaws. Except as provided in the Act, this Master Declaration, any Supplemental Declaration, the Articles or Bylaws, the Executive Board may act in all instances on behalf of the Master Association.

The Executive Board may not, however, act on behalf of the Master Association to amend this Master Declaration, to terminate the Common Interest Community, or to elect members of the Executive Board or determine the qualifications, powers and duties, or terms of office of Executive Board members, but the Executive Board may fill vacancies in its membership for the unexpired portion of any term.

The Executive Board may, by resolution, delegate portions of its authority to officers of the Master Association, but such delegation of authority shall not relieve the Executive Board of the ultimate responsibility for management of the affairs of the Master Association. If appointed by Declarant, in the performance of their duties, the members of the Executive Board and the officers of the Master Association are required to exercise the care required of fiduciaries of the Lot and Unit Owners. If not appointed by Declarant, no member of the Executive Board and no officer shall be liable for actions taken or omissions made in the performance of such member's or officer's duties except for wanton and willful acts or omissions.

8.3 Membership in Master Association. There shall be one Membership in the Master Association for each Lot and Unit within the Common Interest Community. The Person or Persons who constitute the Owner of a Lot or Unit shall automatically be the holder of the Membership appurtenant to that Lot or Unit, and shall collectively be the "Member" of the Master Association with respect to that Lot or Unit, and the Membership appurtenant to that Lot or Unit shall automatically pass with fee simple title to the Lot or Unit. Declarant shall hold a Membership in the Master Association for each Lot or Unit owned by Declarant. Membership in the Master Association shall not be assignable separate and apart from fee simple title to a Lot or Unit, and may not otherwise be separated from ownership of a Lot or Unit.

8.4 Voting Rights of Members. Each Lot and each Unit in the Common Interest Community shall be entitled to one (1) vote in the Master Association, *i.e.*, one (1) vote per Owner/Member. Occupants of Lots or Units shall not have voting rights. If title to a Lot or Unit is owned by more than one (1) Person, such persons shall collectively vote their interest as a single vote. If only one of the multiple owners of a Lot or Unit is present at a Master Association meeting, such owner is entitled to cast the vote allocated to that Lot or Unit. If more than one of the multiple owners is present, the vote allocated to that Lot or Unit may be cast only in accordance with the agreement of a majority in interest of the owners. There is majority agreement if any of the multiple owners casts the vote allocated to that Lot or Unit without protest being made promptly to the person presiding over the meeting by any of the other owners of the Lot or Unit. In the event of a protest being made by one or more multiple owners, and a majority of the multiple owners of the Lot or Unit cannot agree on how to cast their vote, any vote cast for that Lot or Unit shall be null and void with regard to the issue

being voted upon. Such multiple owners and their Lot or Unit shall nevertheless be counted in determining the presence of a quorum with respect to the issue being voted upon.

In accordance with Section 38-33.3-309 of the Act, and except as may otherwise be provided in the Bylaws, a quorum is deemed present throughout any meeting of the Members of the Master Association if persons entitled to cast at least twenty percent (20%) of the votes in the Master Association are present, in person or by proxy, at the beginning of the meeting.

Provided a quorum of Members entitled to vote is present in person or by proxy, the affirmative vote of a majority of the Members so present shall constitute approval of any matter voted upon unless a different number is required on a particular matter by the Act, this Master Declaration, any Supplemental Declaration, the Articles, or the Bylaws.

The vote allocated to a Lot or Unit may be cast pursuant to a proxy duly executed by a Lot or Unit Owner. If a Lot or Unit is owned by more than one person, each owner of the Lot or Unit may vote or register protest to the casting of a vote by the other owners of the Lot or Unit through a duly executed proxy. A Lot or Unit Owner may not revoke a proxy given pursuant to this Section except by actual notice of revocation to the person presiding over a meeting of the Master Association. A proxy is void if it is not dated or purports to be revocable without notice. A proxy shall terminate eleven (11) months after its date, unless a different termination date is otherwise set forth on its face.

No votes allocated to a Lot or Unit owned by the Master Association may be cast.

The Lot and Unit Owners, by a vote of sixty-seven percent (67%) of all Members present and entitled to vote at any meeting of the Lot and Unit Owners at which a quorum is present, may remove any member of the Executive Board with or without cause, other than a member appointed by Declarant.

8.5 Period of Declarant Control of Master Association. Notwithstanding any other provisions hereof, Declarant shall have and hereby reserves the power to appoint and remove, in its sole discretion, the members of the Executive Board and the officers of the Master Association during the period commencing upon the Recording of this Master Declaration and terminating no later than the earlier of (a) sixty (60) days after conveyance of seventy-five percent (75%) of the Lots and Units that may be created to Lot or Unit Owners other than Declarant; or (b) two (2) years after the last conveyance of a Lot or Unit by the Declarant in the ordinary course of business; or (c) two (2) years after any right to add new Lots or Units was last exercised by Declarant.

During said Period of Declarant Control of the Master Association:

(a) Not later than sixty (60) days after conveyance of twenty-five percent (25%) of the Lots and Units that may be created to Lot or Unit Owners other than Declarant, at least one (1) member and not less than twenty-five percent (25%) of the members of the Executive Board must be elected by Lot and Unit Owners other than Declarant.

(b) Not later than sixty (60) days after conveyance of fifty percent (50%) of the Lots and Units that may be created to Lot or Unit Owners other than Declarant, not less than thirty-three and one-third percent (33-1/3%) of the members of the Executive Board must be elected by Lot and Unit Owners other than Declarant.

At any time prior to the termination of the Period of Declarant Control of the Master Association, the Declarant may voluntarily surrender and relinquish the right to appoint and remove officers and members of the Executive Board, but in such event Declarant may require, for the duration of the Period of Declarant Control of the Master Association, that specified actions of the Master Association or the Executive Board, as described in a Recorded instrument executed by Declarant, be approved by Declarant before they become effective. As to such actions, Declarant may give its approval or disapproval in its sole discretion and option, and its disapproval shall invalidate any such action by the Executive Board or the Master Association. Not later than the termination of the Period of Declarant Control of the Master Association, the Lot and Unit Owners (including Declarant) shall elect an Executive Board of at least three (3) members, at least a majority of whom must be Lot or Unit Owners other than Declarant or designated representatives of Lot or Unit Owners other than Declarant, and the Executive Board shall elect the officers, with such Executive Board members and officers to take office upon election. Pursuant to Section 38-33.3-303(9) of the Act, within sixty (60) days after Lot and Unit Owners other than Declarant elect a majority of the members of the Executive Board, Declarant shall deliver to the Master Association all property of the Lot and Unit Owners and of the Master Association held or controlled by Declarant, including without limitation the following items:

- (a) The original or a certified copy of the recorded Master Declaration as amended, the Master Association's Articles of Incorporation, Bylaws, minute books, other books and records, and any rules and regulations which may have been promulgated;
- (b) An accounting for Master Association funds and financial statements from the date the Master Association received funds and ending on the date the Period of Declarant Control ends. The financial statements shall be audited by an independent certified public accountant and shall be accompanied by the accountant's letter, expressing either the opinion that the financial statements present fairly the financial position of the Master Association in conformity with generally accepted accounting principles or a disclaimer of the accountant's ability to attest to the fairness of the presentation of the financial information in conformity with generally accepted accounting principles and the reasons therefor. The expense of the audit shall not be paid for or charged to the Master Association.
- (c) The Master Association funds or control thereof;
- (d) All of the Declarant's tangible personal property that has been represented by the Declarant to be the property of the Master Association or all of the Declarant's tangible personal property that is necessary for, and has been used exclusively in, the operation and enjoyment of Association Property, and inventories of these properties;
- (e) A copy, for the nonexclusive use by the Master Association, of any plans and specifications used in the construction of the improvements in the Common Interest Community;
- (f) All insurance policies then in force, in which the Lot Owners, the Master Association, or its directors and officers are named as insured persons;
- (g) Copies of any certificates of occupancy that may have been issued with respect to any improvements comprising the Common Interest Community;

(h) Any other permits issued by governmental bodies applicable to the Common Interest Community and which are currently in force or which were issued within one year prior to the date on which Lot and Unit Owners other than the Declarant took control of the Master Association;

(i) Written warranties of the contractor, subcontractors, suppliers, and manufacturers that are still effective;

(j) A roster of Lot and Unit Owners and Occupants and Mortgagees and their addresses and telephone numbers, if known, as shown on the Declarant's records.

(k) Employment contracts in which the Master Association is a contracting party; and

(l) Any service contract in which the Master Association is a contracting party or in which the Master Association or the Lot or Unit Owners have any obligation to pay a fee to the persons performing the services.

8.6 **Termination of Contracts and Leases of Declarant.** The following contracts and leases, if entered into before the Executive Board elected by the Lot and Unit Owners pursuant to Section 38-33.3-303(7) takes office, may be terminated without penalty by the Master Association at any time after the Executive Board elected by the Lot and Unit Owners pursuant to said Section 38-33.3-303(7) takes office, upon not less than ninety (90) days notice to the other party: (i) Any management contract, employment contract or lease of recreational or parking areas or facilities; (ii) Any other contract or lease between the Master Association and Declarant or an affiliate of Declarant; or (iii) Any contract or lease that is not bona fide or was unconscionable to the Lot and Unit Owners at the time entered into under the circumstances then prevailing.

8.7 **Master Association/Subassociations.** Every Supplemental Declaration in which a Subassociation is organized and/or established shall contain sufficient language pursuant to Section 38-33.3(220) of the Act delegating responsibilities and control and subordinating it to the Master Association and to this Master Declaration to effectuate the purposes of this Master Declaration. Each Supplemental Declaration shall provide that the Executive Board shall be elected after the termination of the Period of Declarant Control of the Master Association by all Lot and Unit Owners of all Common Interest Communities subject to the Master Declaration. If both a Subassociation and the Master Association have liens for Assessments created at any time on the same Lots or Units, the lien of the Master Association shall take priority over the lien of any Subassociation.

ARTICLE 9 POWERS AND DUTIES OF MASTER ASSOCIATION

9.1 **General Powers and Duties of Master Association.** The Master Association shall have and may exercise all of the powers and rights and duties of a Colorado corporation formed under the Colorado Revised Nonprofit Corporation Act, and all of the powers and duties provided for in the Act including those enumerated in Section 38-33.3-302 of the Act, as such laws may be amended from time to time, subject only to the limitations upon such powers as are contained in this Master Declaration. More specifically, and without limiting the generality of the foregoing, the Master Association shall have all of the powers and duties necessary (i) for the administration, management, governance and operation of the Common Interest Community and the Master Association, (ii) to own, operate, improve, maintain, repair, manage, lease, encumber, and otherwise deal with Association Property,

(iii) to improve, maintain and repair the Limited Common Areas, and (iv) to do any and all lawful things that may be authorized, required or permitted to be done by the Master Association under the Act and/or under the provisions of this Master Declaration and of any Supplemental Declarations.

9.2 **Power to Grant Easements.** The Master Association shall have the power to grant access, utility, drainage, irrigation, and such other easements upon, over, across or under Association Property as it deems necessary or desirable for the benefit of the Common Interest Community or parts thereof, or for the benefit of all or less than all of the Lot or Unit Owners, or for the benefit of lands situated outside the Common Interest Community.

9.3 **Power to Convey or Encumber Association Property.** The Master Association shall have the power to convey, or subject to a security interest, portions of the Association Property if Owners entitled to cast at least sixty-seven percent (67%) of the votes in the Master Association, including sixty-seven percent (67%) of the votes allocated to Lots or Units not owned by Declarant, agree to that action, except that all Owner(s) of Lots to which any Limited Common Area is allocated must agree in order to convey that Limited Common Area or to subject it to a security interest. Proceeds of the sale are an asset of the Master Association.

An agreement to convey, or subject to a security interest, Association Property must be evidenced by the execution of an agreement, in the same manner as a deed, by the Master Association. The agreement must specify a date after which the agreement will be void unless approved by the required percentage of Lot and Unit Owners. Any grant, conveyance or deed executed by the Master Association must be Recorded in the County, and is effective only upon Recordation. The Master Association, on behalf of the Lot and Unit Owners, may contract to convey an interest in an Association Property, but the contract is not enforceable against the Master Association until approved, executed and ratified pursuant to this Section 9.3. Thereafter, the Master Association shall have all the powers necessary and appropriate to effect the conveyance or encumbrance, including the power to execute deeds or other instruments. Unless in compliance with this Section 9.3 any purported conveyance, encumbrance, judicial sale, or other transfer of Association Property is void. A conveyance or encumbrance of Association Property pursuant to this Section 9.3 shall not deprive any Lot or Unit of its rights of (i) access, ingress and egress to the Lot or Unit, and (ii) support of the Lot or Unit. A conveyance or encumbrance of Association Property pursuant to this Section 9.3 shall not affect the priority or validity of pre-existing encumbrances.

9.4 **General Power to Provide Services and Facilities to Owners.** The Master Association shall have the power, but not the obligation, to acquire, construct, operate, manage, maintain, repair and administer services and facilities for the benefit of the Owners, or some of them, including, without limitation, security, animal control, vegetation control, insect and pest control, television service, parking facilities, transportation facilities, snow removal, signage, (including entry monuments), lighting, (including seasonal lighting), interior and perimeter fencing, landscape walls, landscaping services and facilities, drainage facilities, including retention and detention ponds, irrigation facilities, water features, trash and solid waste disposal services, including recycling programs, utility services, recreational facilities and services, maintenance, and such other services, functions and facilities as are deemed appropriate by the Executive Board. The foregoing list shall not be deemed to be a representation by Declarant of services or facilities that will in fact be available for use by the Owners. The Master Association may enter into such agreements and arrangements as it may deem appropriate with any provider of utilities or services to the Common Interest Community or any portion thereof, including any special district that provides such services, and may form or join any districts created to provide such services.

9.5 Power to Provide Services to Subassociations. The Master Association shall have the power, but not the obligation, to provide services to Subassociations. Such services to any Subassociation shall be provided pursuant to an agreement in writing between the Master Association and such Subassociation which shall provide for the payment by such Subassociation to the Master Association of the costs and expenses of the Master Association of providing such services to the Subassociation including a fair share of the overhead expenses of the Master Association. Services which may be provided to a Subassociation may include, without limitation, (a) the construction, care, operation, management, maintenance, repair, and replacement of Improvements owned by the Subassociation; (b) the providing of services to the area covered by the Subassociation; (c) the enforcement of the provisions of any Supplemental Declaration for, on behalf of, and in the name of the Subassociation; (d) the collection of assessments for, in the name of, and on behalf of a Subassociation; (e) the payment of taxes for a Subassociation with funds of the Subassociation; (f) the obtaining of insurance for a Subassociation; (g) the collection of charges for use of facilities of a Subassociation; and (h) the appointment and supervision of a manager or managers for a Subassociation.

9.6 Power to Provide Special Services to Owners. The Master Association shall have the power to provide services to an Owner or group of Owners. Any service or services to an Owner or group of Owners shall be provided pursuant to an agreement in writing, or through one or more Supplemental Declarations, which shall provide for payment to the Master Association by such Owner or group of Owners of the costs and expenses of the Master Association in providing such services, including a fair share of the overhead expenses of the Master Association, and shall contain reasonable provisions assuring that the obligation to pay for such services shall be binding upon any heirs, personal representatives, successors and assigns of the Owner or group of Owners and that the payment for such services shall be secured by a lien on the Lot(s) of the Owner or group of Owners.

9.7 Power to Charge for Special Association Property Uses and Special Master Association Services. The Master Association shall have the power to establish reasonable admission or other fees or charges for any special or extraordinary Association Property uses or Master Association services such as special parking privileges, special recreation facilities, conference rooms, instruction, or similar uses beyond the ordinary use of Association Property and ordinary Master Association services. Such charges or fees shall be set forth in schedules of charges and fees adopted from time to time by the Executive Board.

9.8 Power to Acquire Property and Construct Improvements. The Master Association may acquire, hold, encumber and/or convey any right, title or interest in or to real or personal property, including Improvements. The Master Association may construct Improvements on Association Property and may demolish existing Improvements thereon.

9.9 Power to Adopt Master Rules and Regulations. The Master Association may adopt, amend, repeal, and enforce such reasonable Master Rules and Regulations as the Executive Board may consider necessary, desirable or appropriate from time to time with respect to the interpretation and implementation of this Master Declaration, the operation of the Master Association, the use and enjoyment of Association Property (including Limited Common Areas), and the use of any other property within the Common Interest Community, including Lots and Units. Any such Master Rules and Regulations shall be effective only upon adoption by resolution at an open meeting of the Executive Board. Notice of the adoption, amendment, or repeal of any Master Rule or Regulation shall be given in writing to each Owner, and copies of the currently effective Master Rules and Regulations shall be made available to each Owner and Occupant upon request and payment of the reasonable expense of copying the same. Each Owner and Occupant (and all other Persons who are authorized

users of Association Property) shall comply with such Master Rules and Regulations, and each Owner shall see that Occupants claiming through such Owner comply with such Master Rules and Regulations. Such Master Rules and Regulations shall have the same force and effect as if they were set forth in and were part of this Master Declaration. In the event of conflict between the Master Rules and Regulations and the provisions of this Master Declaration, the provisions of this Master Declaration shall govern. Such Master Rules and Regulations may establish reasonable and uniformly applied penalties (including the levying and collection of fines) for the violation of such Master Rules and Regulations or of any provision of this Master Declaration, the Articles, or the Bylaws.

9.10 **Power to Contract with Employees, Agents, Contractors, Districts, Consultants and Managers.** The Master Association shall have the power to contract with, and/or to employ and discharge employees, agents, independent contractors and consultants, including lawyers and accountants, and special districts, to perform any of the responsibilities of the Master Association under this Master Declaration, including without limitation maintenance responsibilities. The Master Association shall also have the power to retain and pay for the services of a manager or managers, which may be an affiliate of Declarant, to undertake any of the administrative or managerial responsibilities for which the Master Association may have responsibility under this Master Declaration, to the extent deemed advisable by the Master Association, and may delegate any of its duties, powers, or functions to any such manager. Notwithstanding any delegation to a manager of any duties, powers, or functions of the Master Association, the Master Association and its Executive Board shall remain ultimately responsible for the performance and exercise of such duties, powers, and functions.

9.11 **Power to Assign Future Income.** The Master Association shall have the power to assign its right to future income, including the right to receive Regular Assessments, but only following the affirmative vote of the Owners of Lots and Units to which at least fifty-one (51) percent of the votes in the Master Association are allocated, at a duly-called meeting of the Members of the Master Association.

9.12 **Duty to Accept Property and Facilities Transferred by Declarant.** The Master Association shall accept title to any real property, or interests in real property, including any Improvements and personal property thereon, and including water rights and related facilities, transferred to the Master Association by Declarant, or Declarant's successors or assigns. Property interests transferred to the Master Association by Declarant or its successors or assigns may include fee simple title, undivided interests, easements, leasehold interests and licenses to use. Except as may otherwise be approved by the Executive Board, any property or interest in property transferred to the Master Association by Declarant or its successors or assigns shall be within the boundaries of the Common Interest Community; provided, however, that Declarant shall be entitled to transfer and convey the beneficial use of an easement, subject to any obligations thereunder, located outside of the Common Interest Community but which benefits the Master Association and the Owners.

Any property or interest in property transferred to the Master Association by Declarant shall, except to the extent otherwise specifically approved by resolution of the Executive Board, be transferred to the Master Association free and clear of all monetary obligations, liens and encumbrances (other than the lien of property taxes and assessments not then due and payable), but shall be subject to the terms of this Master Declaration, and easements, covenants, conditions, restrictions, and equitable servitudes or other encumbrances of record or otherwise in existence. Except as otherwise specifically approved by resolution of the Executive Board, no property or interest in property transferred to the Master Association by Declarant shall impose upon the Master Association any obligation to make monetary payments to Declarant or any affiliate of Declarant,

including, but not limited to, any purchase price, rent, charge, or fee.

Any Improvements or personal property transferred to the Master Association by Declarant shall be in good working order, ordinary wear and tear excepted, and at the time of transfer Declarant shall make any repairs reasonably required to bring the transferred property into good working order. Subject only to the foregoing, the Master Association shall accept all properties transferred to it by Declarant in their "Where Is, As Is" condition, without recourse of any kind, and Declarant disclaims and shall not be deemed to make or to have made any representations or warranties, express or implied, by fact or law, with respect to the transferred properties or any aspect or element thereof, including without limitation warranties of merchantability, fitness for a particular purpose, or workmanlike construction.

9.13 **Duty to Manage and Care for Association Property.** The Master Association shall manage, operate, care for, maintain, repair and replace all Association Property and keep the same in a functional, clean and attractive condition for the benefit and enjoyment of the Owners. Except as otherwise specifically provided in this Master Declaration or in any Supplemental Declaration, the Master Association shall also manage, operate, care for, maintain and repair the Limited Common Areas.

9.14 **Duty to Pay Taxes.** The Master Association shall pay any taxes and assessments levied upon Association Property (excepting Limited Common Areas) and any other taxes and assessments payable by the Master Association before they become delinquent. The Master Association shall have the right to contest any such taxes or assessments by appropriate legal proceedings provided no sale or foreclosure of any lien for such tax or assessment occurs and provided further that the Master Association shall keep and hold sufficient funds to pay and discharge the taxes and assessments, together with any interest and penalties which may accrue with respect thereto, if the contest of such taxes is unsuccessful.

9.15 **Duty to Keep Master Association Records.** The Master Association shall keep financial records in sufficient detail to enable the Master Association to carry out its responsibilities under this Master Declaration and to comply with the requirements of the Act, including, but not limited to, current records of paid and unpaid Assessments for each Lot and Unit. All financial and other records of the Master Association shall be made reasonably available for examination by the Owners and the authorized agents of the Owners.

9.16 **Duty to Support Design Review Committee.** The Master Association shall take such actions, provide such funds, and do such other things as may be necessary or appropriate from time to time to support and assist the Design Review Committee in the performance of its responsibilities under this Master Declaration, and shall cooperate with said Committee to the fullest extent possible in such matters.

9.17 **Insurance.** Commencing not later than the time of the first conveyance of a Lot or Unit to a Person other than Declarant, the Master Association shall maintain and keep in effect at all times the following types of insurance, and the cost of said coverage shall be paid by the Master Association as a Common Expense:

- (a) **Casualty Insurance.** To the extent reasonably available, property insurance on all Association Property, including but not limited to Improvements and personalty, owned or leased by the Master Association, and on all property that must become Association Property. Such insurance shall be for broad form covered causes of loss, including casualty, fire, and

extended coverage insurance including, if available at reasonable cost, coverage for vandalism and malicious mischief and, if available and if deemed appropriate, coverage for flood, earthquake, and war risk. Such insurance shall, to the extent reasonably obtainable, be for the full insurable replacement cost of the insured property, less applicable deductibles at the time the insurance is purchased and at each renewal date, exclusive of land, excavation, foundations and other items normally excluded from property policies.

(b) **Liability Insurance.** Comprehensive general liability insurance against claims and liabilities arising in connection with the ownership, existence, use, maintenance or management of the Association Property (including the Limited Common Areas), and covering public liability or claims of liability for injury to persons and/or property, and death of any person or persons, and, if the Master Association owns or operates motor vehicles, public liability or claims of liability for bodily injury (including death) and property damage arising as a result of the ownership and operation of motor vehicles. Such liability insurance for other than motor vehicle liability shall, to the extent reasonably obtainable, (a) have limits of not less than Five Million Dollars (\$5,000,000.00) per person and Five Million Dollars (\$5,000,000.00) per occurrence; (b) insure the Executive Board, the Design Review Committee, the Master Association and its officers, the manager, if any, and their respective employees, agents and all Persons acting as agents; (c) include the Declarant as an additional insured as its interests may appear; (d) include the Owners as additional insureds, but only for claims and liabilities arising in connection with the ownership, existence, use, maintenance or management of Association Property; (e) cover claims of one or more insured parties against other insured parties; (f) be written on an occurrence basis; and (g) shall name as additional insureds such other parties as may be required by specific agreements..

(c) **Contractual Liability Insurance.** To the extent reasonably available, contractual liability insurance covering such contractual obligations and liabilities, indemnifications, hold harmless agreements, and agreements to defend, as the Master Association may have or be a party to from time to time, with coverage of at least Two Million Dollars (\$2,000,000.00) or such greater amount as the Executive Board shall determine to be appropriate from time to time.

(d) **Fidelity Bonds.** To the extent reasonably available, fidelity bond coverage against dishonest acts on the part of directors, officers, managers, trustees, agents, employees or volunteers responsible for handling funds belonging to or administered by the Master Association. If funds of the Master Association are handled by a management agent, then fidelity bond coverage may also be obtained for the officers, employees, or agents thereof handling or responsible for Master Association funds. The fidelity bond or insurance must name the Master Association as the named insured and shall be written to provide protection in an amount no less than the lesser of (a) one-half times the Master Association's estimated annual operating expenses and reserves, (b) a sum equal to three (3) months aggregate Regular Assessments, plus reserves, as calculated from the current Budget of the Master Association; or (c) the estimated maximum amount of funds, including reserves, in the custody of the Master Association (and its management agent) at any one time. In connection with such coverage, an appropriate endorsement to the policy to cover any person who serves without compensation shall be added if the policy would not otherwise cover volunteers.

(e) **Worker's Compensation.** A Worker's Compensation policy, if necessary, to meet the requirements of law.

(f) **Directors and Officers Liability Insurance.** Directors and officers liability insurance with coverage of at least Two Million Dollars (\$2,000,000.00) or such greater amount as the Executive Board shall approve for all Master Association, Executive Board and Design Review Committee directors, officers, members and managers, for any and all errors and/or omissions and other covered actions that occur during their tenure in office or employment. This insurance coverage shall be mandatory.

(g) **Other Insurance.** Such other insurance in such amounts as the Executive Board shall determine, from time to time, to be appropriate to protect the Master Association or the Lot and Unit Owners, or as may be required by the Act.

(h) **General Provisions Respecting Insurance.** Insurance obtained by the Master Association may contain such deductible provisions as good business practice may dictate. If the insurance described is not reasonably available, or if any policy of such insurance is canceled or not renewed without a replacement policy therefor having been obtained by it, the Master Association shall promptly cause notice of that fact to be delivered or sent prepaid by U.S. Mail to all Owners.

Insurance policies carried pursuant to Sections 9.17(a) and 9.17(b) above shall provide that (i) each Owner is an insured Person under the policy with respect to liability arising out of such Owner's interest in the Association Property or membership in the Master Association; (ii) the insurer waives its rights of subrogation under the policy against the Master Association, each Owner, and any Person claiming by, through, or under such Owner or any other director, agent, or employee of the foregoing; (c) no act or omission by any Owner, unless acting within the scope of such Owner's authority on behalf of the Master Association, will void the policy or be a condition to recovery under the policy; and (d) if at the time of a loss under the policy, there is other insurance in the name of an Owner covering the same risk covered by the policy, the Master Association's policy shall be the primary insurance. An insurer that has issued an insurance policy for the insurance described in Sections 9.17(a) and 9.17(b) above shall issue certificates or memoranda of insurance to the Master Association and, upon request, to any Lot or Unit Owner or holder of a security interest. Unless otherwise provided by statute, the insurer issuing the policy may not cancel or refuse to renew it until thirty (30) days after notice of the proposed cancellation or nonrenewal has been mailed to the Master Association, and each Lot or Unit Owner and holder of a security interest to whom a certificate or memorandum of insurance has been issued, at their respective last-known addresses.

Any loss covered by the property insurance policy described in Section 9.17(a) above must be adjusted with the Master Association, but the insurance proceeds for that loss shall be payable to any insurance trustee designated for that purpose, or otherwise to the Master Association, and not to any holder of a security interest. The insurance trustee or the Master Association shall hold any insurance proceeds in trust for the Master Association Lot and Unit Owners and lienholders as their interests may appear. Subject to the provisions of Section 38.33.3-313(9) of the Act, the proceeds must be disbursed first for the repair or restoration of the damaged property, and the Master Association, Lot and Unit Owners, and lienholders are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the property has been completely repaired or restored or the Common Interest Community is terminated.

The Master Association may adopt and establish written nondiscriminatory policies and procedures relating to the submittal of claims, responsibility for deductibles, and any other matters of claims adjustment. To the extent the Master Association settles claims for damages to real property, it

shall have the authority to assess negligent Owners causing such loss or benefiting from such repair or restoration for all deductibles paid by the Master Association. In the event more than one Lot or Unit is damaged by a loss, the Master Association in its reasonable discretion may assess each Lot and Unit Owner a pro rata share of any deductible paid by the Master Association. Insurance obtained by the Master Association shall, to the extent reasonably possible, and provided Declarant reimburses the Association for any additional premium payable on account thereof, name Declarant as an additional insured and shall contain a waiver of rights of subrogation as against Declarant.

Insurance policies and insurance coverage shall be reviewed at least annually by the Executive Board to ascertain whether coverage under the policies is sufficient in light of the current values of the Association Property and in light of the possible or potential liabilities of the Master Association and other insured parties. The aforementioned insurance may be provided under blanket policies covering the Association Property and property of Declarant.

In no event shall insurance coverage obtained or maintained by the Master Association obviate the need for Owners and Occupants to obtain insurance for their own benefit.

Furthermore, to the extent reasonably available, insurance policies obtained by the Master Association shall contain the following provisions:

(i) The coverage afforded by such policies shall not be brought into contribution or proration with any insurance which may be purchased by a Lot or Unit Owner, Occupant or Mortgagee.

(ii) The conduct of any one or more Lot or Unit Owners or Occupants shall not constitute grounds for avoiding liability on any such policies.

(iii) Each policy must contain a waiver of any defenses based on co-insurance or on invalidity arising from the acts of the insured.

(iv) A "severability of interest" endorsement shall be obtained which shall preclude the insurer from denying the claim of a Lot or Unit Owner or Occupant because of the conduct or negligent acts of the Master Association and its agents or other Lot or Units Owners or Occupants.

(v) Any "no other insurance" clause shall exclude insurance purchased by Lot or Unit Owners, Occupants or Mortgagees.

(vi) Coverage must not be prejudiced by (i) any act or neglect of Lot or Unit Owners or Occupants when such act or neglect is not within the control of the Master Association, or (ii) any failure of the Master Association to comply with any warranty or condition regarding any portion of the Common Interest Community over which the Master Association has no control.

(vii) Coverage may not be canceled or substantially modified without at least thirty (30) days (or such lesser period as the Master Association may reasonably deem appropriate) prior written notice to the Master Association.

(viii) Any policy of property insurance which gives the carrier the right to elect to restore damage in lieu of a cash settlement must provide that such

election is not exercisable without the prior written approval of the Master Association, or when in conflict with the insurance trust provisions contained herein, or any requirement of law.

(ix) A recognition of any insurance trust agreement entered into by the Master Association.

(x) Each hazard insurance policy shall be written by a hazard insurance carrier which has a financial rating as designated in *Best's Key Rating Guide* of Class VI or better, or if such rating service be discontinued, an equivalent rating by a successor thereto or a similar such rating service. Each insurance carrier must be specifically licensed or authorized by law to transact business within the State of Colorado.

(i) **Nonliability of Master Association or Executive Board.** Notwithstanding the duty of the Master Association to obtain insurance coverage, as stated herein, neither the Master Association nor any Executive Board member, nor the Declarant, shall be liable to any Lot or Unit Owner, Occupant, Mortgagee or other Person, if any risks or hazards are not covered by insurance, or if the appropriate insurance is not obtained because such insurance coverage is not reasonably obtainable on the Master Association's behalf, or if the amount of insurance is not adequate, and it shall be the responsibility of each Lot and Unit Owner and Occupant to ascertain the coverage and protection afforded by the Master Association's insurance and to procure and pay for such additional insurance coverage and protection as the Lot or Unit Owner or Occupant may desire.

(j) **Master Premiums.** Premiums for insurance policies purchased by the Master Association and other expenses connected with acquiring such insurance shall be paid by the Master Association as a Common Expense, except that (i) liability insurance on Limited Common Areas shall be separately bid and the cost thereof shall only be included in the Regular Assessments of the Lots entitled to use such Limited Common Areas, and (ii) the amount of increase over any annual or other premium occasioned by the use, misuse, occupancy or abandonment of a Lot or Unit or its appurtenances, or Association Property, by a Lot or Unit Owner or Occupant, may at the Executive Board's election, be assessed against that particular Lot or Unit Owner and his Lot or Unit as a Reimbursement Assessment.

(k) **Insurance Claims.** The Master Association is hereby irrevocably appointed and authorized, subject to the provisions contained herein, to adjust all claims arising under insurance policies purchased by the Master Association and to execute and deliver releases upon the payment of claims, and to do all other acts reasonably necessary to accomplish any of the foregoing. The Executive Board has full and complete power to act for the Master Association in this regard, and may, in its discretion, appoint an authorized representative, or enter into an insurance trust agreement, wherein the trustee shall have the authority to negotiate losses under any policy purchased by the Master Association.

(l) **Benefit.** Except as otherwise provided herein, all insurance policies purchased by the Master Association shall be for the benefit of, and any proceeds of insurance received by the Master Association or any insurance trustee shall be held or disposed of in trust for the Master Association, the Lot and Unit Owners, or the Occupants, as their interests may appear.

(m) ***Other Insurance to be Carried by Lot or Unit Owners.*** Insurance coverage on the furnishings and other items of personal property belonging to a Lot or Unit Owner or Occupant, public liability insurance coverage upon each Lot or Unit, and casualty insurance coverage on the Improvements constructed on Lots and Units, shall be the responsibility of the Owner or Occupant of the Lot or Unit. No Lot Owner or Occupant shall maintain any insurance, whether on its Lot or Unit or otherwise, which would limit or reduce the insurance proceeds payable under the casualty insurance maintained by the Master Association in the event of damage to the Improvements or fixtures on Association Property.

9.18 **Damage to Common Interest Community.** Any portion of the Common Interest Community for which insurance is required under Section 38-33.3-313 of the Act (except any portion on which insurance is carried by a Subassociation) which is damaged or destroyed must be repaired or replaced promptly by the Master Association unless: (i) repair or replacement is the responsibility of a Subassociation under a Supplemental Declaration, (ii) the Common Interest Community is terminated; (iii) repair or replacement would be illegal under any state or local statute or ordinance governing health or safety; (iv) sixty-seven percent (67%) of the Lot and Unit Owners, including owners of every Lot or Unit that will not be rebuilt, vote not to rebuild; or (v) prior to the conveyance of any Lot or Unit to a person other than Declarant, a Mortgagee on the damaged portion of the Common Interest Community rightfully demands all or a substantial part of the insurance proceeds.

The cost of repair or replacement in excess of insurance proceeds and reserves is a Common Expense. If the entire Common Interest Community is not repaired or replaced, the insurance proceeds attributable to the damaged Association Property must be used to restore the damaged area to a condition compatible with the remainder of the Common Interest Community, and, except to the extent that other Persons will be distributees, the insurance proceeds attributable to Lots or Units that are not rebuilt must be distributed to the Owners of those Lots or Units, or to lienholders, as their interests may appear, and the remainder of the proceeds must be distributed to all Lot and Unit Owners or lienholders as their interests may appear in proportion to the Common Expense liabilities of all the Lots and Units.

In the event of damage to or destruction of all or a portion of the Association Property due to fire or other adversity or disaster, the insurance proceeds, if sufficient to reconstruct or repair the damage, shall be applied by the Master Association to such reconstruction and repair. If the insurance proceeds with respect to such Association Property damage or destruction are insufficient to repair and reconstruct the damage or destruction, the Master Association may levy a Special Assessment in the aggregate amount of such deficiency, or if any Owner or group of Owners is liable for such damage, may levy a Reimbursement Assessment against the Owner or group of Owners responsible therefor, and shall proceed to make such repairs or reconstruction. Such Assessment shall be due and payable as provided by resolution of the Executive Board, but not sooner than sixty (60) days after written notice thereof. The Assessment provided for herein shall be a debt of each Lot and Unit Owner assessed and a lien on his Lot or Unit, and may be enforced and collected in the same manner as any Assessment Lien provided for in this Master Declaration. If the entire damaged Association Property is not repaired or replaced, the insurance proceeds attributable to the damaged Association Property must be used to restore the damaged area to a condition compatible with the remainder of the Common Interest Community. No distributions of insurance proceeds shall be made unless made jointly payable to the Lot and Unit Owners and first Mortgagees of their respective Lots or Units, if any.

9.19 **Limited Liability.** Neither the Master Association nor its past, present or future officers or directors, nor any other employee, agent or committee member of the Master Association shall be liable to any Owner or Occupant or to any other Person for actions taken or omissions made

except for wanton and willful acts or omissions. Without limiting the generality of the foregoing, the Master Association, the Executive Board and the Design Review Committee shall not be liable to any Owner or Occupant or other Person for any action or for any failure to act with respect to any matter if the action taken or failure to act was in good faith and without malice. Acts taken upon the advice of legal counsel, certified public accountants, registered or licensed engineers, architects or surveyors shall conclusively be deemed to be in good faith and without malice. To the extent insurance carried by the Master Association for such purposes shall not be adequate, the Owners severally agree to indemnify and to defend the Master Association, the Executive Board and the Design Review Committee against claims, damages or other liabilities resulting from such good faith action or failure to act.

ARTICLE 10 ASSESSMENTS

10.1 **Assessment Obligation and Lien.** Declarant, for each Lot and Unit, shall be deemed to covenant and agree, and each Lot or Unit Owner, by acceptance of a deed therefor (including a public trustee's or sheriff's deed), whether or not it shall be so expressed in any such deed or other instrument of conveyance, shall be deemed to covenant and agree, to pay to the Master Association: (1) Regular Assessments or charges, (2) Special Assessments, and (3) Reimbursement Assessments, such assessments to be established and collected as hereinafter provided (collectively the "Assessments"). No Owner shall have any right to set-off against an Assessment any claims that the Owner may have or claim to have against the Master Association. The Assessments, together with interest, late charges, costs, and reasonable attorneys' fees, shall be a continuing lien and security interest upon the Lot or Unit against which each such Assessment is charged. The obligation for such payments by each Lot or Unit Owner to the Master Association is an independent covenant, with all amounts due from time to time payable in full without notice (except as otherwise expressly provided in this Declaration) or demand, and without set-off or deduction of any kind or nature. Each Lot and Unit Owner is liable for Assessments made against such Owner's Lot or Unit during his period of ownership of the Lot or Unit. Each Assessment, together with interest, late charges, costs and reasonable attorneys' fees, shall also be the joint, several and personal obligation of each Person who was an Owner of such Lot or Unit at the time when the Assessment became due. Upon the transfer of title to a Lot or Unit, the transferor and the transferee shall be jointly, severally and personally liable for all unpaid Assessments and other charges due to the Master Association prior to the date of transfer, and the transferee shall be personally liable for all such Assessments and charges becoming due thereafter.

10.2 **Statutory Lien.** The Master Association has a statutory lien pursuant to Section 38-33.3-316 of the Act on the Lot or Unit of an Owner for all Assessments levied against such Lot or Unit or fines imposed against such Lot's or Unit's Owner from the time the Assessment or fine becomes due (the "Assessment Lien"). Fees, charges, late charges, attorneys' fees, fines and interest charged by the Master Association pursuant to the Act or this Master Declaration or any Supplemental Declaration are enforceable as Assessments. The amount of the lien shall include all such items from the time such items become due. If an Assessment is payable in installments, the Master Association has an Assessment Lien for each installment from the time it becomes due, including the due date set by the Executive Board's acceleration of installment obligations. An Assessment Lien is extinguished unless proceedings to enforce the lien are instituted within 6 years after the full amount of Assessments becomes due.

10.3 **Lien Superior to Homestead and Other Exemptions.** An Assessment Lien shall be superior to any homestead exemption now or hereafter provided by the laws of the State of Colorado or

any exemption now or hereafter provided by the laws of the United States. The acceptance of a deed subject to this Master Declaration shall constitute a waiver of the homestead and any other exemption as against said Assessment Lien.

10.4 **Priority of Lien.** An Assessment Lien is prior to all other liens and encumbrances on a or Unit except as follows:

- (a) Liens and encumbrances Recorded before the recordation of this Master Declaration;
- (b) A security interest on the Lot or Unit which has priority over all other security interests on the Lot or Unit and which was Recorded before the date on which the Assessment sought to be enforced became delinquent. An Assessment Lien is prior to the security interest described in the preceding sentence to the extent of an amount equal to the Regular Assessments (based on a Budget adopted by the Master Association pursuant to Section 10.7 below) which would have become due, in the absence of any acceleration, during the six (6) months immediately preceding institution by the Master Association or any party holding a lien senior to any part of the Master Association lien created under this Article 10 of an action or a nonjudicial foreclosure either to enforce or to extinguish the lien;
- (c) Liens for real estate taxes and other governmental assessments or charges against the Lot or Unit; and
- (d) As may otherwise be set forth in the Act. The priority of mechanics' and materialmen's liens is not affected by the Act.

This Article 10 does not prohibit an action or suit to recover sums for which this Article 10 creates a lien or prohibits the Master Association from taking a deed in lieu of foreclosure. Sale or transfer of any Lot or Unit shall not affect the lien for an Assessment.

10.5 **Perfection of Lien.** The Recording of this Master Declaration and of each Supplemental Declaration constitutes record notice and perfection of the statutory lien. No further Recordation of any claim of lien for Assessments is required; however, a claim may be Recorded at the Master Association's option, in which event costs and attorneys' fees incurred in connection with the preparation and filing of such claim shall be assessed against the Lot or Unit as a Reimbursement Assessment.

10.6 **Regular Assessments.**

- (a) A Regular Assessment shall be made annually against each Lot and Unit, based upon an annual Budget prepared by the Executive Board, for purposes of paying (i) the annual costs of operating and administering the Master Association and all other Common Expenses, (ii) reasonable reserves for contingencies, replacements, and other proper purposes, (iii) the costs of services rendered or expenditures incurred by the Master Association to or for less than all Lots or Units, (iv) the costs of improving or maintaining Limited Common Areas, and reasonable reserves for such costs, which costs shall be assessed only to the Lots designated for the use of said Limited Common Areas, (unless such costs are for the general benefit of the Common Interest Community), and (v) such other matters as may be reasonably determined by the Executive Board to be the subject of a Regular Assessment;

(b) Regular Assessments shall be allocated in accordance with the Allocated Interests of each Lot and Unit in the Common Interest Community, except that any Common Expense or portion thereof that in the judgment of the Executive Board benefits fewer than all of the Lots or Units shall be assessed exclusively against the Lots or Units benefited. If Common Expense liabilities are reallocated, Common Expense Assessments and any installment thereof not yet due shall be reallocated in accordance with the reallocated Common Expense liabilities.

(c) Regular Assessments shall be levied on a calendar year basis, except that the initial Regular Assessment period shall commence on the first day of the calendar month or quarter in which the first Lot or Unit is conveyed by Declarant to a Person other than Declarant. Regular Assessments shall be paid in installments on a monthly, quarterly or semi-annual basis, as the Executive Board may determine from time to time, and shall be due either on the first day of each calendar month or on the first day of each calendar year quarter (January 1, April 1, July 1 and October 1), or on the first day of a semi-annual period (e.g. January 1, July 1) as appropriate. Unless and until changed to a monthly or semi-annual system by the Executive Board, Regular Assessments shall be due and payable on the first day of each calendar quarter. Any Lot or Unit Owner acquiring a Lot or Unit between installment due dates shall pay a pro rata share of the immediately preceding installment.

(d) The Executive Board shall fix the amount of the Regular Assessment, using the Budget procedure described below, at least thirty (30) days before the end of each calendar year. Written notice of the Regular Assessment shall be sent to each Owner. Failure of the Executive Board timely to fix and levy the Regular Assessments for any year or to send a notice thereof to any Owner shall not relieve or release any Owner from liability for payment of Regular Assessments or any installments thereof for that or subsequent years as soon as the Executive Board levies the Regular Assessment and provides notice thereof. If a duly adopted Budget is amended during the calendar year, the Executive Board shall provide written notice to the Owners of any changes caused thereby in the remaining Regular Assessments due during that year.

(e) The Executive Board shall also mail to each Owner at least ten (10) days prior to the due date thereof a written notice of the amount of the next quarterly (or monthly or semi annual, as the case may be) installment of Regular Assessment that is due from such Owner, and the date on which such installment is due pursuant to paragraph 10.6(d) above. Failure of the Executive Board to send timely notice to any Owner of an installment of Regular Assessment due shall not relieve or release any Owner from liability for payment of that installment as soon as the Executive Board in fact provides such notice.

(f) In accordance with Section 38-33.3-314 of the Act, any surplus funds remaining after payment of or provision for Master Association expenses and any prepayment of or provision for reserves shall be carried forward as a credit against the next year's budget.

10.7 **Master Association Budget.** Commencing in 2000, and during the last three (3) months of each year thereafter, the Executive Board shall prepare or cause to be prepared an operating budget (the "Budget") for the next calendar year. The Budget shall provide for the allocation of any surplus funds remaining from any previous Budget period. The annual Budget may provide for a Special Assessment in any calendar year, if considered necessary or appropriate by the Executive Board. Alternatively, the Executive Board may at any time adopt a Special Budget that provides for a Special Assessment. Within thirty (30) days after adoption of any proposed Budget for the Master

Association, the Executive Board shall mail, by ordinary first-class mail, or otherwise deliver, a summary of the Budget to all the Lot and Unit Owners and shall set a date for a meeting of the Lot and Unit Owners to consider ratification of the Budget not less than fourteen (14) nor more than sixty (60) days after the mailing or other delivery of the summary. Such meeting may, but need not be, concurrent with the annual meeting of the Members as provided in the Bylaws. Unless at that meeting sixty-seven percent (67%) of all Lot and Unit Owners reject the Budget, the Budget shall be ratified, whether or not a quorum of Owners is present. In the event that the proposed Budget is rejected, the Budget last ratified by the Lot and Unit Owners shall be continued until such time as the Lot Owners ratify a subsequent Budget proposed by the Executive Board.

If the Executive Board considers it necessary or appropriate, a duly adopted Budget may be amended during the calendar year by the Executive Board, provided the same notice and ratification procedure is followed for the Amended Budget as is required for the annual Budget.

10.8 Special Assessments. In addition to the Regular Assessments and Reimbursement Assessments authorized in this Article 10, the Executive Board may levy, in any assessment year, a Special Assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair, maintenance or replacement of capital improvements (including related fixtures and personal property and including without limitation irrigation systems), to or upon or serving the Common Interest Community, or for excess reconstruction costs or other extraordinary expenses, or to acquire Association Property, or for funding any operating deficit of the Master Association. Special Assessments shall be allocated in the same manner as Regular Assessments, that is, in accordance with the Allocated Interests of each Lot and Unit in the Common Interest Community, and shall be due and payable to the Master Association on the due date fixed by the Executive Board in the notice given to the Owners of such Special Assessment, which due date shall be no earlier than thirty (30) days after the giving of such notice. Any Special Assessment for an Improvement or other expenditure which in the judgment of the Executive Board will benefit fewer than all of the Lots or Units shall only be levied against the Lots or Units benefited; provided, that expenditures in connection with Association Property (excepting Limited Common Areas) shall be deemed for the general benefit of all Lots and Units, wherever located. If fewer than all of the Lots and Units will be subject to the Special Assessment, then such Special Assessment shall be allocated equally amongst those Lots and Units.

10.9 Reimbursement Assessments. In addition to the Regular and Special Assessments authorized hereunder, the Executive Board may levy against any Owner or Owners, at any time and from time to time, a Reimbursement Assessment for purposes of reimbursing the Master Association for all costs and expenses incurred by it in enforcing any provision of or in remedying any violation of this Master Declaration, or of any Supplemental Declaration, the Articles, Bylaws, Master Rules and Regulations or Design Guidelines, or any approvals granted by the Design Review Committee, by such Owner or Owners, their Occupant(s), or their agents, employees or contractors. Reimbursement Assessments may also be made by the Executive Board for any other purposes for which this Master Declaration provides for the levying of a Reimbursement Assessment. Finally, and in addition to the foregoing, a Reimbursement Assessment may also be levied in the form of a reasonable fine against an Owner for a violation of this Master Declaration, a Supplemental Declaration, the Articles, Bylaws, the Design Guidelines, or the Master Rules and Regulations, but only after the Owner(s) to be so fined have been provided with Notice and Hearing. Reimbursement Assessments shall be due and payable to the Master Association on the due date fixed by the Executive Board in the notice given to the Owner(s) of such Reimbursement Assessment, which date shall be no earlier than thirty (30) days after the giving of such notice.

10.10 Effect of Nonpayment of Assessments; Remedies of the Master Association. Any Assessment or portion or installment thereof which is not paid when due (or for which a bad check is issued) shall be deemed delinquent and shall bear interest from and after the due date at the rate of interest set by the Executive Board from time to time, which shall not be less than twelve percent (12%) nor more than twenty-one percent (21%) per year, and the Executive Board may also assess a late charge (and/or a bad check charge) thereon. The Executive Board may also elect to accelerate the installment obligations of any Regular Assessment for which an installment is delinquent. The Executive Board may also suspend the delinquent Owner's use of Association Property and Master Association services or benefits, as provided in Section 13.4. The delinquent Owner shall also be liable for all costs, including attorneys' fees, which may be incurred by the Master Association in collecting a delinquent Assessment, which collection costs shall be added to the delinquent Assessment. The Executive Board may but shall not be required to record a Notice of Delinquent Assessment or charge against any Lot or Unit as to which an Assessment or charge is delinquent. The Notice shall be executed by an officer of the Executive Board, and shall set forth the amount of the unpaid Assessment or charge, the name of the delinquent Owner and a description of the Lot or Unit.

The Assessment Lien may be foreclosed by the Master Association in the same manner as a mortgage on real property. The Master Association shall be entitled to purchase the Lot or Unit at foreclosure. The Master Association may also bring an action at law against the Owner personally obligated to pay the delinquent Assessment and/or foreclose the lien against said Owner's Lot or Unit in the discretion of the Master Association. No Owner may exempt himself or otherwise avoid liability for the Assessments provided for herein by waiver of the use or enjoyment of any of the Association Property or by abandonment of the Lot or Unit against which the Assessments are made. Where Assessments that are due from any Owner are more than ninety (90) days delinquent, the Executive Board may temporarily suspend any or all Master Association services or benefits to the delinquent Owner and his Lot or Unit, including the right to use Association Property, until all delinquent Assessments are fully paid.

In any action by the Master Association to collect Assessments or to foreclose a lien for unpaid Assessments, the court may appoint a receiver to collect all sums alleged to be due from the Lot or Unit Owner prior to or during the pending of the action. The court may order the receiver to pay any sums held by the receiver to the Master Association during the pending of the action to the extent of the Master Association's Regular Assessments.

10.11 Statement of Unpaid Assessments. The Master Association shall furnish to an Owner or such Owner's designee or to a holder of a security interest or its designee upon written request, delivered personally or by facsimile transmittal or by certified mail, first class postage prepaid, return receipt requested, to the Master Association, a written statement setting forth the amount of unpaid Assessments currently levied against such Owner's Lot or Unit, whether delinquent or not. The statement shall be furnished within fourteen (14) days after receipt of the request and is binding on the Master Association, the Executive Board, and every Owner. If no statement is furnished either delivered personally or by facsimile transmission or by certified mail, first-class postage prepaid, return receipt requested, to the inquiring party, then the Master Association shall have no right to assert a lien upon the Lot or Unit for unpaid Assessments which were due as of the date of the request.

10.12 Assessments for Tort Liability. In the event of any tort liability against the Master Association which is not covered completely by insurance, each Owner shall contribute for the payment of such liability as a Special Assessment. The Master Association may, however, require a larger contribution from fewer than all Owners under any legal or equitable principles regarding liability for negligent or willful acts or omissions.

ARTICLE 11
EMINENT DOMAIN

11.1 **Definition of Taking.** The term "taking", as used in this Article 11, shall mean condemnation by eminent domain or sale under threat of condemnation.

11.2 **Representation in Condemnation Proceedings of Association Property.** In the event of a threatened taking of all or any portion of the Association Property, the Lot and Unit Owners hereby appoint the Master Association through such persons as the Executive Board may designate to represent the Master Association and all of the Lot and Unit Owners in connection therewith. The Master Association shall act in its sole discretion with respect to any awards being made in connection with the taking and shall be entitled to make a voluntary sale to the condemnor in lieu of engaging in a condemnation action. Service of process on the Master Association shall constitute sufficient notice to all Lot and Unit Owners, and service of process on each individual Lot and Unit Owner shall not be necessary.

11.3 **Award for Association Property.** Any awards received by the Master Association on account of the taking of Association Property shall be paid to the Master Association. The Master Association may, in its sole discretion, retain any award in the general funds of the Master Association or distribute all or any portion thereof to the Lot and Unit Owners as their interests may appear. The rights of a Lot or Unit Owner and the Mortgagee of a Lot or Unit as to any such distribution shall be governed by the provisions of the Mortgage encumbering the Lot or Unit.

11.4 **Taking of Lots.** If a Lot or Unit is acquired by eminent domain or part of a Lot or Unit is acquired by eminent domain leaving the Lot or Unit Owner with a remnant which may not practically or lawfully be used for any purpose permitted by this Master Declaration, the award must include compensation to the Lot or Unit Owner for that Lot or Unit and its Allocated Interests whether or not any Association Property was acquired. Upon acquisition, unless the decree otherwise provides, that Lot's or Unit's Allocated Interests are automatically reallocated to the remaining Lots and Units (as appropriate) in proportion to the respective Allocated Interests of those Lots and Units before the taking. Any remnant of a Lot or Unit remaining after part of a Lot or Unit is taken is thereafter Association Property. Otherwise, if part of a Lot or Unit is acquired by eminent domain, the award must compensate the Lot or Unit Owner for the reduction in value of the Lot or Unit and its interest in the Association Property whether or not any Association Property was acquired. Upon acquisition, unless the decree otherwise provides:

(a) That Lot's or Unit's Allocated Interests are reduced in proportion to the reduction in the size of the Lot or Unit; and

(b) The portion of Allocated Interests divested from the partially acquired Lot or Unit is automatically reallocated to that Lot or Unit and to the remaining Lots and Units (as appropriate) in proportion to the respective interests of those Lots and Units before the taking, with the partially acquired Lot or Unit participating in the reallocation on the basis of its reduced Allocated Interests.

11.5 **Miscellaneous.** The court decree shall be recorded in Mesa County. The reallocations of Allocated Interests pursuant to this Article shall be confirmed by an amendment to the Master Declaration prepared, executed, and recorded by the Master Association.

**ARTICLE 12
GENERAL PROVISIONS**

12.1 Duration of Master Declaration. The term of this Master Declaration shall be perpetual.

12.2 Termination of Common Interest Community. The Common Interest Community may be terminated only by the agreement of (i) Lot and Unit Owners to which at least eighty percent (80%) of the votes in the Master Association are allocated, and (ii) the holders of all First Mortgages on Lots and Units. In the event of such termination, the provisions of Section 38-33.3-218 of the Act shall apply.

12.3 Amendment of Master Declaration and Plat. This Master Declaration and the Plat may be amended pursuant to Section 38-33.3-217 of the Act. Under the Act, the Master Declaration (including the Plat) may be amended by Declarant in certain defined circumstances, including without limitation (a) when the Declarant is exercising reserved rights under Article 6 hereof, (b) for purposes of correcting clerical, typographical or technical errors, or (c) to comply with the requirements, standards, or guidelines of recognized secondary mortgage markets, the Department of Housing and Urban Development, the Federal Housing Administration, the Veterans Administration, the Federal Home Loan Mortgage Corporation, the Government National Mortgage Association, or the Federal National Mortgage Association. The Act also provides that the Master Declaration may be amended by the Master Association in certain defined circumstances. Otherwise, and subject always to (i) any provisions of this Master Declaration requiring the consent of Declarant, and (ii) the provisions of Section 3.37 above allowing Owners to amend this Master Declaration (with the consent of the Master Association) in certain circumstances, this Master Declaration and any Supplemental Declarations (including the Plat and any Supplement Plats) may be amended only by the vote or agreement of Lot and Unit Owners to which more than fifty percent (50%) of the votes in the Master Association are allocated. Any amendments to Plats that were originally approved by the City shall also require City approval. No amendment shall be effective to change, limit, impair, reduce or eliminate any right of Declarant as reserved or otherwise provided in this Master Declaration or in any Supplemental Declaration unless such amendment is approved in writing by Declarant.

Furthermore, Section 38-33.3-217(4) of the Act provides that except to the extent expressly permitted or required by other provisions of the Act (*e.g.*, permitted Declarant or Master Association amendments), no amendment may (i) create or increase special Declarant rights, (ii) increase the number of Lots and Units, or (iii) change the boundaries of any Lot or Unit or the Allocated Interests of a Lot or Unit in the absence of a vote or agreement of Lot and Unit Owners to which at least sixty-seven percent (67%) of the votes in the Master Association are allocated, including sixty-seven percent (67%) of the votes allocated to Lots and Units not owned by Declarant.

Further, Section 38-33.3-217(4.5) of the Act provides that except to the extent expressly permitted or required by other provisions of the Act, no amendment may change the uses to which any Lot or Unit is restricted in the absence of a vote or agreement of Lot and Unit Owners to which at least sixty-seven percent (67%) of the votes in the Master Association are allocated.

No consent of any mortgage or trust deed holder shall be required to accomplish any such amendments.

With the exception of amendments accomplished by Supplemental Declaration (when lands are annexed to the Common Interest Community), an amendment to this Master Declaration shall be in the

form of a "First (or Second, etc.) Amendment to Master Declaration and Plat of Redlands Mesa." With the exception of Declarant amendments, amendments to this Master Declaration shall be duly executed by the President and Secretary of the Master Association and Recorded in the Office of the Clerk and Recorder of Mesa County. All amendments to this Master Declaration shall be indexed in the Grantee's index in the names of the Common Interest Community and the Master Association, and in the Grantor's index in the name of each Person executing the amendment.

12.4 Compliance; Enforcement. Every Owner and Occupant of a Lot or Unit in the Common Interest Community and every other Person who may be an authorized user of Association Property, shall fully and faithfully observe, abide by, comply with and perform all of the covenants, conditions and restrictions set forth in this Master Declaration, any Supplemental Declaration, the Articles, Bylaws, Master Rules and Regulations, the Outline Development Plan for Redlands Mesa, the Design Guidelines and all approvals granted by the Design Review Committee, as the same or any of them may be amended from time to time. In addition to any other rights or remedies that may be provided to any Person under the terms and provisions of this Master Declaration or of any Supplemental Declaration, Declarant (for so long as it holds any of the rights set forth in Article 6 hereof), the Master Association through its Executive Board, the Design Review Committee as to matters involving (i) Improvements within the Common Interest Community, (ii) the Design Guidelines, or (iii) any other matters arising under Article 4 hereof, or with respect to which the Design Review Committee is otherwise expressly given enforcement authority under this Master Declaration or any Supplemental Declaration, and every Lot and Unit Owner (except an Owner that is delinquent in the payment of Assessments hereunder) shall have the right, acting alone or together with others having such right, to enforce, by any proceeding at law or in equity, any or all of the covenants, conditions, restrictions, assessments, charges, liens, servitudes, easements and other provisions now or hereafter imposed by this Master Declaration, any Supplemental Declaration, the Articles, Bylaws, Master Rules and Regulations, the Outline Development Plan, the Design Guidelines, and approvals granted by the Design Review Committee.

Such enforcement rights shall include without limitation the right to bring an injunctive action for any form of injunctive relief available under Colorado law (including specific performance), or an action for damages, or both. Injunctive relief may include, without limitation, orders to stop work, orders to remove Improvements constructed in violation hereof, orders to compel performance, and any other orders appropriate under the circumstances.

The Executive Board shall have the further right (a) to levy and collect, after Notice and Hearing, reasonable fines for the violation of any of the foregoing matters, (b) to levy and collect a Reimbursement Assessment against any Owner, (c) to enter upon any Lot or Unit within the Common Interest Community, after giving the Lot or Unit Owner or Occupant at least five (5) days' written notice of the nature of the violation, (unless an emergency exists, in which case without notice), without liability to the Owner or Occupant thereof, to enforce or cause compliance with such matters, at the cost and expense of the Owner or Occupant in violation, and/or (d) where the violation has continued for more than ninety (90) days after the Executive Board has given the Lot or Unit Owner or Occupant written notice of the violation, the Executive Board may temporarily cut off any or all Master Association services or benefits to the subject Owner or Occupant and his Lot or Unit, including the right to use Association Property (except access roads), until the violation is cured.

In any action brought under this Section 12.4, the prevailing party shall be entitled to an award of its reasonable attorneys' fees and costs incurred in connection therewith. Failure by any party entitled to do so to exercise in a particular instance any of the rights available to it under this Section 12.4 shall in no event be deemed a waiver of the right to do so in any other instance.

Provided always, that no Owner shall have the right to bring an enforcement action against another Owner or Occupant for a breach by that Owner or Occupant of any of such matters, or against Declarant, the Master Association or the Design Review Committee for a breach by the Declarant, the Master Association or the Design Review Committee of any of such matters or for a failure by Declarant, the Master Association or the Design Review Committee to enforce compliance with such matters by others, until the aggrieved Owner has given the offending Owner or Occupant, Declarant, the Master Association and/or the Design Review Committee at least thirty (30) days prior written notice of the aggrieved Owner's complaint and the opportunity to resolve the problem during that thirty (30) day period.

And further provided, that notwithstanding any law to the contrary, no action shall be commenced or maintained to enforce the terms of any building restriction contained in the provisions of this Master Declaration or any Supplemental Declaration, the Bylaws, the Articles of Incorporation, the Outline Development Plan for Redlands Mesa, the Design Guidelines, or the Master Rules and Regulations, or to compel the removal of any building or Improvement because of the violation of the terms of any such building restriction, unless the action is commenced within one year from the date from which the person commencing the action knew or in the exercise of reasonable diligence should have known of the violation for which the action is sought to be brought or maintained.

12.5 **Rights of First Mortgagees.** Upon the filing of a written request therefor with the Master Association, the holder of a First Mortgage on any Lot or Unit in the Common Interest Community shall be entitled to:

- (a) Written notice from the Master Association that the Owner of the subject Lot or Unit is delinquent in the payment of Assessments thereon;
- (b) Inspect the books and records of the Master Association during normal business hours;
- (c) Receive copies of annual Master Association financial statements;
- (d) Receive written notice of meetings of the Master Association where matters will be considered that, if approved, will require the consent of First Mortgagees or some of them;
- (e) Receive written notice of condemnation proceedings affecting any Association Property; and
- (f) Receive written notice of the lapse of any insurance that the Master Association is required to maintain under this Master Declaration.

In addition, any First Mortgagee shall be entitled to pay any taxes or other charges which are in default and which may or have become a lien against Association Property and may pay any overdue premiums on hazard or general liability insurance policies covering Association Property, and shall be entitled to immediate reimbursement therefor from the Master Association, unless the Master Association is contesting any unpaid taxes or other charges and has set aside sufficient funds to pay the contested amounts if necessary.

12.6 **Golf Land and Facilities.** In no event and for no purpose shall the Golf Land or any golf course improvements or other improvements or facilities constructed thereon or related thereto, be

deemed to be a part of the Common Interest Community, to constitute Association Property, or to be burdened by this Master Declaration or any Supplemental Declaration. This Master Declaration does not grant or create any rights or privileges to or for the benefit of the Owners or Occupants of Lots or Units in the Common Interest Community to use or enjoy the Golf Land or any part thereof or improvements or facilities thereon for any purpose. Without limiting the generality of the foregoing, no Lot or Unit shall have any right (i) to have golf course or other improvements or facilities constructed on the Golf Land or to have them constructed in any particular location on the Golf Land, (ii) to have or preserve a visual or sight easement over and across any portion of the Golf Land, and/or (iii) to have access to, across or from the Golf Land in any particular location or alignment.

12.7 Golf Land Hazards, Risks and Liabilities: Disclosure, Assumption of Risk, Release and Indemnification. The Golf Land may be used as a public or private golf course and related improvements, facilities and uses. By acceptance of a deed to a Lot or Unit, each Lot or Unit Owner acknowledges and agrees that any such golf course uses will enhance the value of the Lot or Unit by providing pleasant surroundings and open space for the Common Interest Community. Each Lot and Unit Owner further acknowledges (i) that the use and operation of the Golf Land as a golf course and related improvements and facilities will involve certain risks to the Common Interest Community, including but not limited to damage to property and improvements and personal injury and death caused by errant golf balls that may be hit into the Common Interest Community, and (ii) that while the Common Interest Community has been designed to minimize these risks to the extent reasonably possible, it would be impossible to render the Common Interest Community free of all golf course-related risks. Certain of the more common hazards associated with the operation of a golf course are more particularly described in subsections (a) through (g) below (collectively the "Golf Course Hazards"):

(a) **Errant Golf Balls.** Owners of Lots or Units, particularly Lots or Units abutting the Golf Land, acknowledge the inherent risks of errant golf balls (including without limitation property damage, personal injury and death), and assume and accept such risks, including any associated trespasses. Owners acknowledge that golfers have the right to enter upon Lots and Units in the Common Interest Community to retrieve golf balls that are visible from the fairway, and each Owner agrees to release and waive any claims said Owner may have against the Declarant or the Golf Owner as a result of such entry and retrieval and any trespass associated therewith. Provided, that no such entry shall be allowed into, and no golf balls may be retrieved from, any internal portion of a Lot or Unit that is enclosed by a privacy fence or other landscaping barrier that has been approved in writing by the Design Review Committee. A discreet sign indicating "No Ball Retrieval Beyond This Point" may be located by the Lot Owner on such privacy fence or barrier, so long as the written approval thereof has first been obtained from the Design Review Committee.

(b) **View Impairment/Impairment of Privacy.** Owners of Lots or Units, including Owners of Lots or Units abutting the Golf Land, have no guarantee that their views over and across the Golf Land or any part thereof will be forever preserved without impairment, that the views from the Golf Land will not be impaired, or that their privacy will not be impaired. The Golf Owner has no obligation to the Lot and Unit Owners to prune or not prune trees or other landscaping and such Golf Owner may change, add to or reconfigure the golf course and related facilities and improvements on the Golf Land, including without limitation structural improvements, fences, trees, landscaping, rough areas, ponds, practice facilities, tees, bunkers, fairways, greens, clubhouses, and other recreational, social, maintenance and administrative improvements and facilities, in any manner or location and at any time deemed appropriate by said Golf Owner, without liability or obligation to the Lot or Unit Owners.

(c) Pesticides and Fertilizers. Pesticides, fertilizers and other chemicals may be utilized in connection with the operation and maintenance of the Golf Land and related landscaping and the Owners of Lots and Units acknowledge, accept and assume the risks associated with the use of pesticides, fertilizers and other chemicals.

(d) Overspray. Owners of Lots or Units, particularly Lots or Units abutting the Golf Land, may experience "overspray" from the Golf Land irrigation system, and such Owners acknowledge, accept and assume the risks associated with such "overspray".

(e) Noise and Light; Tournaments. Owners of Lots or Units, particularly Lots or Units in proximity to the golf course clubhouse, may be exposed to lights, noises or activities resulting from the use of the golf course for tournaments, from the use of the clubhouse for dining and entertainment, and from use of the parking lot, and such Lot and Unit Owners acknowledge, accept and assume the risks associated with such uses.

(f) No Access. The Owner of each Lot or Unit abutting any portion of the Golf Land, by accepting a deed to his Lot or Unit acknowledges that the Golf Owner may not permit access to any portion of the Golf Land directly from any Lot or Unit. Such access will only be permitted through the clubhouse and at such other entry points as the Golf Owner may from time to time specifically designate. Accordingly, each Owner of a Lot or Unit abutting any portion of the Golf Land agrees not to access the Golf Land directly from his Lot or Unit (unless otherwise expressly permitted by the Golf Owner), and agrees not to permit any of his Occupants, family, guests, invitees, licensees or any other person to do so.

(g) Maintenance. The Golf Land and related improvements and facilities will require daily maintenance, including mowing, irrigation and grooming, during early morning, evening and night hours, including without limitation the use of tractors, mowers, blowers, pumps, compressors and utility vehicles. Owners of Lots or Units, particularly Lots or Units in proximity to the Golf Land, will be exposed to the noise and other effects of such maintenance, and such Owners acknowledge, accept and assume the risks associated with such maintenance activities.

IN CONSIDERATION FOR THE ABOVE-ACKNOWLEDGED ENHANCEMENT IN VALUE, AND WITH FULL AWARENESS OF THESE AND OTHER RISKS, BY ACCEPTING THE DEED TO A LOT OR UNIT EACH LOT AND UNIT OWNER FOR HIMSELF AND HIS OCCUPANTS, INVITEES, LICENSEES, SUCCESSORS AND ASSIGNS (COLLECTIVELY THE "OWNER'S RELATED PARTIES") HEREBY (I) ACKNOWLEDGES, ACCEPTS AND ASSUMES THE RISKS ASSOCIATED WITH SAID GOLF COURSE HAZARDS AND OF ANY DAMAGE TO PROPERTY OR TO THE VALUE OF PROPERTY, DAMAGE TO IMPROVEMENTS, PERSONAL INJURY OR DEATH, OR THE CREATION OR MAINTENANCE OF A TRESPASS OR NUISANCE, CAUSED BY OR ARISING IN CONNECTION WITH ANY OF SAID GOLF COURSE HAZARDS OR OTHER RISKS, HAZARDS AND DANGERS ASSOCIATED WITH THE OPERATION OF A PUBLIC OR PRIVATE GOLF COURSE OR ARISING FROM THE DESIGN OF SUCH GOLF COURSE (COLLECTIVELY THE "ASSUMED RISKS"), AND (II) RELEASES, WAIVES, DISCHARGES, COVENANTS NOT TO SUE, INDEMNIFIES AND AGREES TO DEFEND AND HOLD HARMLESS THE DECLARANT, THE MASTER ASSOCIATION, AND THE GOLF OWNER, AND EACH OF THEIR RESPECTIVE OFFICERS, DIRECTORS, PARTNERS, SHAREHOLDERS, MEMBERS, AFFILIATES, EMPLOYEES, CONTRACTORS, CONSULTANTS, AGENTS, SUCCESSORS AND ASSIGNS (COLLECTIVELY, THE

“RELEASED PARTIES”), AND EACH OF THEM, FROM ANY AND ALL LIABILITY TO THE LOT OR UNIT OWNER OR OWNER’S RELATED PARTIES FOR ANY DAMAGES, LOSSES, COSTS (INCLUDING, WITHOUT LIMITATION, ATTORNEYS’ FEES), CLAIMS, DEMANDS, SUITS, JUDGMENTS, ORDINARY NEGLIGENCE, OR OTHER OBLIGATIONS ARISING OUT OF OR CONNECTED IN ANY WAY WITH ANY OF THE ASSUMED RISKS. THIS RELEASE IS INTENDED TO BE A COMPREHENSIVE RELEASE OF LIABILITY BUT IS NOT INTENDED TO ASSERT DEFENSES WHICH ARE PROHIBITED BY LAW. NOTWITHSTANDING THE FOREGOING, HOWEVER, THIS SECTION 12.7 SHALL NOT LIMIT THE LIABILITY OF INDIVIDUAL GOLFERS USING THE GOLF PROPERTIES.

In addition to the foregoing, the Declaration of Easements also establishes certain easements and restrictions upon portions of the Common Interest Community for the benefit of the Golf Owner and the Golf Land, and each Owner of a Lot or Unit, by accepting a deed thereto, hereby acknowledges having read the Declaration of Easements and, being familiar with the terms thereof, hereby accepts and agrees to the same.

The acknowledgments, assumptions of risk, agreements and other matters contained in this Section 12.7 shall be deemed to run with the title to each Lot and Unit within the Common Interest Community.

12.8 **Notice.** Each Lot and Unit Owner, and each First Mortgagee if it so elects, shall register its mailing address from time to time with the Master Association. Except as otherwise specifically provided in this Master Declaration, any notice permitted or required to be given hereunder shall be in writing and may be delivered either personally, or by facsimile transmission, or by mail. Notices delivered personally or sent by facsimile transmission shall be deemed given on the date so delivered or sent. If delivery is made by mail, it shall be deemed to have been delivered two (2) business days after a copy of the same has been posted in the first-class U.S. Mail with adequate postage affixed, addressed to the receiving party at the address last registered by such party with the Master Association, or in the case of a Lot or Unit Owner that has not provided such an address, to the Lot or Unit of that Owner. Notices to the Master Association shall be sent to such address as it may from time to time designate in writing to each Owner.

12.9 **No Dedication to Public Use.** Except as otherwise expressly provided herein to the contrary, nothing contained in this Master Declaration or in any Supplemental Declaration shall be deemed to be or to constitute a dedication of all or any part of the Common Interest Community to the public or to any public use.

12.10 **Interpretation of Master Declaration and Supplemental Declarations; Conflicts with Act.** The provisions of this Master Declaration and of all Supplemental Declarations shall be liberally construed to effectuate their purpose of creating a common and general plan for the development, improvement, enhancement, protection and enjoyment of the Common Interest Community, and to the extent possible, shall be construed so as to be consistent with the Act. In the event that any of the terms and conditions of this Master Declaration or of any Supplemental Declaration are determined to be inconsistent with the Act, the Act shall control. Notwithstanding anything to the contrary in this Master Declaration or in any Supplemental Declaration, no rights or powers reserved to Declarant hereunder or in any Supplemental Declaration shall exceed the time limitations upon or the permissible extent of such rights or powers under the Act, and in the event any of such reserved rights or powers are determined to be inconsistent with the Act, the related provisions shall not be invalidated but shall be modified to the extent required to comply with the Act.

12.11 **Conflict With Plats.** In the event of any conflict or inconsistency between the provisions of this Master Declaration or any Supplemental Declaration and the Plat, or any Supplemental Plat, including the Plat notes thereon, the provisions of said Plat or Supplemental Plat or Plat notes, as the case may be, shall govern and control and this Master Declaration or any Supplemental Declaration shall automatically be amended, but only to the extent necessary to conform the conflicting provisions hereof with the provisions of said Plat, Supplemental Plat or Plat notes.

12.12 **No Express or Implied Covenants on Lands Not Annexed.** Nothing in this Master Declaration or in any Supplemental Declaration shall create, or be deemed to create, any express or implied covenants upon or with respect to any real property or interest therein not actually annexed to the Common Interest Community in the manner provided herein, including without limitation the Annexable Property.

12.13 **Violations Constitute a Nuisance.** Any violation of any provision, covenant, condition, restriction or equitable servitude contained in this Master Declaration, or in any Supplemental Declaration, whether by act or omission, is hereby declared to be a nuisance and may be enjoined or abated, whether or not the relief sought is for negative or affirmative action, by any Person entitled to enforce the provisions of this Master Declaration. This provision does not limit the remedies that may be available under this Master Declaration or at law or in equity. Failure of the Master Association to bring enforcement action to correct any violation of this Master Declaration or any Supplemental Declaration shall not constitute a waiver of or estop the Master Association from bringing a future or subsequent enforcement action to correct such violation or any other similar violation.

12.14 **Declarant's Disclaimer of Representations and Warranties.** No representations or warranties of any kind, express or implied, have been given or made or shall be deemed to have been given or made by Declarant or its agents or employees in connection with the Common Interest Community, the Golf Land, or any portion thereof or any Improvements thereon, its or their physical condition, zoning, compliance with applicable laws, fitness for intended use or operation, adequacy or availability of utilities, or in connection with the subdivision, sale, improvement, operation, maintenance, cost of maintenance, taxes or regulation thereof, unless and except as shall be specifically set forth in writing herein, in any registration statement or purchase and sale agreement executed by Declarant, or in any closing document related thereto. Furthermore, no such representations or warranties have been given or made or shall be deemed to have been given or made by Declarant or its agents or employees that the plans presently envisioned for the complete development of the Common Interest Community and/or the Association Property or the Golf Land, can or will be carried out, or that any land now owned or hereafter acquired by Declarant is or will be subjected to this Master Declaration or that any such land (whether or not it is subjected to this Master Declaration) is or will be committed to or developed for a particular (or any) use, or that if such land is once used for a particular use, such use will continue in effect, unless and except as shall be specifically set forth in writing herein, in any registration statement or purchase and sale agreement executed by Declarant, or in any closing document related thereto.

12.15 **Captions.** Captions given to various Articles and Sections herein are for convenience only and are not intended to modify or affect the meaning of any of the substantive provisions hereof and shall not be considered in interpreting any of the provisions hereof.

12.16 **Singular Includes Plural.** Unless the context requires a contrary construction, as employed in this Master Declaration the singular shall include the plural and the plural the singular; and the masculine, feminine or neuter shall each include the masculine, feminine and neuter.

12.17 **Remedies Cumulative.** Each remedy provided under this Master Declaration and any Supplemental Declaration is cumulative and not exclusive.

12.18 **Costs and Attorneys' Fees.** In any action or proceeding involving the interpretation or enforcement of any provision of this Master Declaration or of any Supplemental Declaration, the prevailing party shall be entitled to recover its reasonable attorneys' fees and costs incurred in connection therewith.

12.19 **Governing Law; Jurisdiction.** The laws of the City of Grand Junction and of the State of Colorado shall govern the interpretation, validity, performance, and enforcement of this Master Declaration and any Supplemental Declaration. Any legal action brought in connection with this Master Declaration or any Supplemental Declaration shall be commenced in the District Court for Mesa County, Colorado, and by acceptance of a deed to a Lot or Unit each Lot and Unit Owner voluntarily submits to the jurisdiction of such court.

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

12.21 **No City Liability.** Notwithstanding any other provision herein to the contrary, no obligation, duty or liability including a duty to pay money, interest, attorneys' fees or other costs, shall be assumed by, transferred to, or imposed on the City of Grand Junction pursuant to this Declaration, or by virtue of the City's ownership of any Tract within Redlands Mesa.

12.22 **Disclaimer Regarding Safety.** **DECLARANT AND THE MASTER ASSOCIATION HEREBY DISCLAIM ANY OBLIGATION REGARDING THE SECURITY OF ANY PERSONS OR PROPERTY WITHIN THE COMMON INTEREST COMMUNITY. ANY OWNER OF PROPERTY WITHIN THE COMMON INTEREST COMMUNITY ACKNOWLEDGES THAT DECLARANT AND THE MASTER ASSOCIATION ARE ONLY OBLIGATED TO DO THOSE ACTS SPECIFICALLY ENUMERATED HEREIN, OR IN THE ARTICLES OF INCORPORATION AND BYLAWS, AND ARE NOT OBLIGATED TO DO ANY OTHER ACTS WITH RESPECT TO THE SAFETY OR PROTECTION OF PERSONS OR PROPERTY WITHIN THE COMMON INTEREST COMMUNITY.**

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

REDLANDS MESA, LLC,
a Colorado limited liability company

By: _____

David R. Slemon, Manager

STATE OF Colorado)
) ss.
COUNTY OF Eagle)

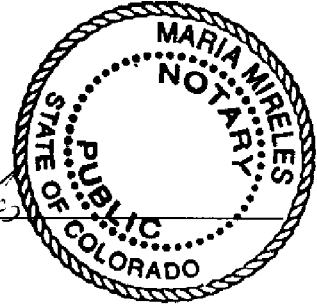
The foregoing Master Declaration was acknowledged before me this 7 day of July, 2000, by David R. Slemon as Manager of Redlands Mesa, LLC, a Colorado limited liability company, Declarant.

WITNESS my hand and official seal.

My commission expires: 7/03/03

(SEAL)

Maria Mireles
Notary Public



ALLOCATED INTERESTS
REDLANDS MESA FILING 1

<u>Lots or Units</u>	<u>Common Expense Liability</u>	<u>Vote</u>
Block 1, Lots 1-39 inclusive	Each Lot: 1/78	Each Lot: 1 Vote
Block 2, Lots 1-5 inclusive	Each Lot: 1/78	Each Lot: 1 Vote
Block 3, Lots 1-3 inclusive	Each Lot: 1/78	Each Lot: 1 Vote
Block 4, Lots 1-5 inclusive	Each Lot: 1/78	Each Lot: 1 Vote
Block 5, Lots 1-12 inclusive	Each Lot: 1/78	Each Lot: 1 Vote
<u>Block 6, Lots 1-14 inclusive</u>	<u>Each Lot: 1/78</u>	<u>Each Lot: 1 Vote</u>
Total Lots: 78	Total Common Expense Liabilities: 78/78	Total Votes: 78

EXHIBIT B

RECORDED EASEMENTS AND LICENSES

1. All easements dedicated, shown or referred to on the Plat of Redlands Mesa Filing 1 recorded 17 July, 2000 in Plat Book 17 at Page 654. #1957576

2. Easements and rights-of-way created or reserved in United States Patents recorded in Book 163 at Page 32, Book 163 at Page 70, Book 163 at Page 298, Book 163 at Page 494, Book 230 at Page 113, Book 163 at Page 343, Book 163 at Page 219, Book 230 at Page 143, and Book 438 at Page 204.

3. Easement for sanitary sewer pipelines, and/or one or more water pipelines, together with all underground and surface appurtenances thereto and rights incidental thereto, granted to Ridges Metropolitan District in instruments recorded in Book 1499 at Page 144 and in Book 1510 at Page 43.

4. Declaration of Golf Course and Community Area Easements recorded 17 July, 2000 in Book 2730 at Page 44. #1957574