

**MASTER DECLARATION OF COVENANTS,  
CONDITIONS, RESTRICTIONS AND  
EASEMENTS**

for

**THE RANCH CLUB**



**200726316**

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Missoula County Vickie M Zeier COV

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MASTER DECLARATION OF  
COVENANTS, CONDITIONS  
AND RESTRICTIONS AND  
RESERVATION OF EASEMENTS

for

THE RANCH CLUB SUBDIVISION

October 2, 2007

**SCOPE OF MASTER DECLARATION OF COVENANTS, CONDITIONS, AND  
RESTRICTIONS, AND RESERVATION OF EASEMENTS  
FOR THE RANCH CLUB**

This Master Declaration of Covenants, Conditions, and Restrictions, and Reservation of Easements for the Ranch Club Subdivision (hereinafter "Declaration") replaces, supplants and supercedes the First Amended Master Declaration for Phantom Hills Subdivision recorded at Book 725, Page 1529 (see Phantom Hills Homeowners' Association July 10, 2007 Minutes attached as Exhibit 1) for and applies to **Phases 4 through 11 of The Ranch Club Subdivision (and Lots 76, 77 and 78, Phantom Hills, Phases 4 and 5)**, which are presently described as follows

PARCEL I: ALL OF THE RANCH CLUB, PHASES 4 AND 5, A PLATTED SUBDIVISION IN MISSOULA COUNTY, MONTANA, ACCORDING TO THE OFFICIAL PLAT OF RECORD IN BOOK 32 OF PLATS AT PAGE 17 AND LOTS 76, 77 AND 78 OF PHANTOM HILLS, PHASES 4 AND 5, A PLATTED SUBDIVISION IN MISSOULA COUNTY, MONTANA, ACCORDING TO THE OFFICIAL PLAT OF RECORD IN BOOK 30 OF PLATS AT PAGE 52.

PARCEL II: THE REMAINDER PARCEL OF CERTIFICATE OF SURVEY NO. 5257, LOCATED IN SECTION 10, TOWNSHIP 13 NORTH, RANGE 20 WEST, P.M.,M., MISSOULA COUNTY, MONTANA. LESS AND EXCEPTING THEREFROM ANY PORTIONS THEREOF PLATTED IN PHANTOM HILLS, PHASES 1 AND 2, AS RECORDED IN BOOK 27 OF PLATS AT PAGE 66; PHANTOM HILLS, PHASE 3, AS RECORDED IN BOOK 28 OF PLATS AT PAGE 8; LOTS 76, 77 AND 78 OF PHANTOM HILLS, PHASES 4 AND 5, AS RECORDED IN BOOK 30 OF PLATS AT PAGE 52; THE RANCH CLUB, PHASES 4 AND 5, AS RECORDED IN BOOK 32 OF PLATS AT PAGE 17; LOTS D-1 THROUGH D-8 INCLUSIVE OF PHANTOM HILLS, PHASE 3A, AS RECORDED IN BOOK 31 OF PLATS AT PAGE 51; Lot 13A OF PHANTOM HILLS, PHASES 1 AND 2, LOT 13A, AS RECORDED IN BOOK 31 OF PLATS AT PAGE 52 AND TRACT 1 OF CERTIFICATE OF SURVEY NO. 5440.

Containing 294.2 acres, more or less.

The Golf Course Area is not included in the Property subject to this Declaration.

(Referred to in this Declaration as "The Ranch Club Subdivision" or the "Property").

Additionally, property annexed to the Subdivision as provided in this Declaration at future dates may become subject to this Declaration at that time, as provided herein.

**MASTER DECLARATION OF COVENANTS, CONDITIONS  
AND RESTRICTIONS AND RESERVATION OF  
EASEMENTS FOR THE RANCH CLUB SUBDIVISION**

This Master Declaration is made this 2nd day of October, 2007 by The Ranch Club Realty, LLC, a Montana limited liability company, of P.O. Box 17680, Missoula, Montana 59808, hereinafter referred to as the "Declarant."

WITNESSETH:

WHEREAS, the Declarant is the Owner of certain real property (and has the consent of the owner of Lots 76, 77 and 78, Phantom Hills, Phases 4 and 5) in Missoula County, Montana, known as The Ranch Club, and more particularly described as:

PARCEL I: ALL OF THE RANCH CLUB, PHASES 4 AND 5, A PLATTED SUBDIVISION IN MISSOULA COUNTY, MONTANA, ACCORDING TO THE OFFICIAL PLAT OF RECORD IN BOOK 32 OF PLATS AT PAGE 17 AND LOTS 76, 77 AND 78 OF PHANTOM HILLS, PHASES 4 AND 5, A PLATTED SUBDIVISION IN MISSOULA COUNTY, MONTANA, ACCORDING TO THE OFFICIAL PLAT OF RECORD IN BOOK 30 OF PLATS AT PAGE 52.

PARCEL II: THE REMAINDER PARCEL OF CERTIFICATE OF SURVEY NO. 5257, LOCATED IN SECTION 10, TOWNSHIP 13 NORTH, RANGE 20 WEST, P.M.,M., MISSOULA COUNTY, MONTANA. LESS AND EXCEPTING THEREFROM ANY PORTIONS THEREOF PLATTED IN PHANTOM HILLS, PHASES 1 AND 2, AS RECORDED IN BOOK 27 OF PLATS AT PAGE 66; PHANTOM HILLS, PHASE 3, AS RECORDED IN BOOK 28 OF PLATS AT PAGE 8; LOTS 76, 77 AND 78 OF PHANTOM HILLS, PHASES 4 AND 5, AS RECORDED IN BOOK 30 OF PLATS AT PAGE 52; THE RANCH CLUB, PHASES 4 AND 5, AS RECORDED IN BOOK 32 OF PLATS AT PAGE 17; LOTS D-1 THROUGH D-8 INCLUSIVE OF PHANTOM HILLS, PHASE 3A, AS RECORDED IN BOOK 31 OF PLATS AT PAGE 51; Lot 13A OF

PHANTOM HILLS, PHASES 1 AND 2, LOT 13A, AS RECORDED IN BOOK 31 OF PLATS AT PAGE 52 AND TRACT 1 OF CERTIFICATE OF SURVEY NO. 5440.

Containing 294.2 acres, more or less.

The Golf Course Area is not included in the Property subject to this Declaration.

(Referred to in this Declaration as "The Ranch Club Subdivision" or the "Property"); and

WHEREAS, the Declarant wishes to place restrictions, covenants and conditions upon The Ranch Club Subdivision for the use and benefit of the Property, the Declarant and the future Owners thereof.

NOW THEREFORE, the Declarant hereby declares that The Ranch Club Subdivision shall be held, sold, and conveyed subject to the following restrictions, covenants, conditions, and easements, all of which are for the purpose of enhancing and protecting the value, desirability, and attractiveness of the Property as a desirable residential development. These restrictions, covenants, conditions and easements shall run with the Property and shall be binding upon all parties having or acquiring any right, title or interest in the Property, or any part thereof, and shall inure to the benefit of and be binding upon each successor in interest to the Owner thereof.

## ARTICLE I DEFINITIONS

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

### 1.1 Association

Association as used in this Declaration shall mean the Master Association, which is also identified as The Ranch Club Homeowners Association, Inc., a Montana non-profit mutual benefit corporation; or any Subassociation identified as such.

### 1.2 Common Area

Common Area shall mean any portion of the Property designated from time to time in this Declaration or any Supplemental Declaration, which is to be owned in common by Owners of Lots, or by the Master Association, or by a Subassociation.

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### **1.3 Association Property**

Association Property shall mean all the real and personal property and improvements, other than Common Areas, which are owned or to be owned or leased at any time by the Master Association, for the common benefit, use and enjoyment of Owners. The Association Property may include any and all of those walls, median strips, pedestrian walkways, parks, lakes, slopes, berms, landscaping, parkway areas, private streets, transportation systems, parking areas, intersection plazas, and irrigation systems, raw water delivery systems and drainage systems which are identified as Association Property and/or given to the Association. The title to all or any portion of the Association Property in any phase of development may be subject to a prior dedication to a governmental body or maintenance special assessment district.

### **1.4 Declarant**

Declarant shall mean The Ranch Club Realty, LLC, a Montana limited liability company, and any individual and/or entity to which it shall have assigned any of its rights hereunder by an express written and recorded assignment in which such assignee is designated a successor Declarant.

### **1.5 Developer**

Developer shall mean a person who acquires a portion of the Property designated and/or permitted for residential development, divided or to be divided into a number of Lots specified in writing by Declarant, or intended to be developed into a number of single family homes, townhomes, or condominiums specified in writing by Declarant for the purpose of developing such portion for resale to the general public as may be allowed and agreed to in writing in Declarant's sole discretion; provided, however, that the term "Developer" shall not mean or refer to Declarant.

### **1.6 Family**

Family shall mean a group of natural persons related to each other by blood or legally related to each other by marriage or adoption.

### **1.7 Golf Course Area**

Golf Course Area shall mean all portions of the improved golf course and related and/or similar appurtenances, facilities and/or accessory uses permitted by The Ranch Club Special Zoning District, including, but not limited to, the following:

a. Golf Course Lots D-1 through D-8 of Phantom Hills 3A a platted subdivision in Missoula County and uses permitted in the Recreation Subdistrict of The Ranch Club Special Zoning District.

The Golf Course Area is not included in the Property subject to this Declaration.

### **1.8 Lot**

Lot shall mean any residential lot or parcel of land within the Property, upon which a townhome, condominium or a detached single Family residence may be constructed. The total number of Lots is subject to the Declarant's right to change the number of Lots in the final recorded plat of each Phase of the The Ranch Club Subdivision. As each Phase is finally platted, the lots described in the final, recorded plat for each Phase of the Subdivision shall constitute the Lots.

Utility lots designated on any plat of the Property are not included in the Property subject to this Declaration. The Golf Course Area and appurtenances are not part of the Property.

### **1.9 Declaration**

Declaration shall mean this Master Declaration of Covenants, Conditions and Restrictions and Reservation of Easements, as it may be amended from time to time.

### **1.10 Master Association**

Master Association shall mean The Ranch Club Homeowners Association, Inc., a Montana non-profit mutual benefit corporation formed pursuant to Title 35 of the Montana Code Annotated, and its successors and assigns.

### **1.11 Member**

Member shall mean every person holding a membership in the Master Association or any Subassociation.

### **1.12 Owner, Ownership Interest**

"Owner," "Owners," and "Ownership Interest" shall mean and refer to the record Owner, whether one or more Persons, of fee simple title to any Lot which is a part of the Property, but excluding those Persons having an interest merely as security for the performance of an obligation. If a Lot is sold under a contract for deed and the contract and/or a notice of purchaser's interest is recorded, the purchaser under the contract for deed, rather than the fee owner, shall be considered the "Owner" from and after the date the Association receives written notice of the recorded contract for deed and/or written notice of purchaser's interest.

**1.13 Phase**

Any phase of The Ranch Club Subdivision.

**1.14 Property**

Property shall mean The Ranch Club Subdivision; and any other real property which is made subject to this Declaration by a recorded instrument, including any Supplemental Declaration.

**1.15 Restrictions**

Restrictions shall mean this Declaration; the Articles and Bylaws of the Master Association, and of any Subassociation; any Rules and Regulations from time to time in effect; and any Development Regulations and The Ranch Club Design Guidelines (Design Guidelines); all as may be amended and in effect from time to time.

**1.16 Rules and Regulations**

Rules and Regulations shall mean any Rules and Regulations adopted by the Board of the Master Association or by any Subassociation, as they may be amended from time to time.

**1.17 Subassociation**

Any association formed under Article IV of this Declaration.

**1.18 Supplemental Declaration**

Supplemental Declaration shall mean any recorded declaration of covenants, conditions and Restrictions and reservation of easements or similar document annexing other real property to the Property, as provided herein. As annexed, other real property shall become Property subject to this Declaration.

**1.19 Unit**

A Unit shall mean a Lot.

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## ARTICLE II DEVELOPMENT AND ANNEXATION

### 2.1 Subdivision and Development

Declarant intends that the Property be developed for various uses consistent with this Declaration.

As Phases of The Ranch Club Subdivision are developed, Declarant alone may, with respect thereto, create Subassociations which may adopt Rules and Regulations which may supplement this Declaration.

If there is any conflict between any Rules and Regulations or Restrictions and the provisions of this Declaration, the provisions of this Declaration shall control, although such documents shall be read and construed together to be consistent with one another to the extent possible. The provisions of this Declaration, any Rules and Regulations and any Restrictions shall also be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion thereof shall not affect the validity or enforceability of any other provision or portion thereof.

As to each Phase, control over the Association Property or Common Areas therein, if any, may be transferred to a Subassociation in accordance with the provisions of this Declaration.

The Declarant may amend any Rules and Regulations, insofar as they pertain to any Phase, so long as Declarant is the owner of all of the Lots comprising such Phase. A Developer may amend any Rules and Regulations, insofar as they pertain to any separate Phase, so long as such Developer alone or Declarant and such Developer together are the Owners of all of the Lots comprising such Phase, and the Declarant consents in writing to the amendment.

### 2.2 Land Classifications

The Property shall be designated according to the following land classifications and pursuant to this Declaration and any applicable Supplemental Declaration:

a. **Residential Area.** Those portions of the Property comprising Lots for single Family detached residences, townhomes, and condominiums.

b. **Association Property and Common Area.** Those portions of the Property designated as Common Area on a final, recorded subdivision plat of any Phase; or designated as Association Property by Declarant or a Developer.

c. **Golf Course Area.** The Golf Course Area and accessory uses as defined above.

### **2.3 Annexation**

Declarant may, but shall not be required to, at any time, or from time to time, without the consent of the Members, add to the Property covered by this Declaration, by recording a Supplemental Declaration with respect to the real property to be annexed. Such right to annex shall terminate on October 2, 2027, or such longer period as is lawful under the rule against perpetuities.

The recording of a Supplemental Declaration describing any other property and containing a reference to the provisions set forth herein shall constitute such described property as a part of the Property, subject to the Restrictions contained in this Declaration and effective upon such recording, and such Property shall thereafter be subject to the functions, powers and jurisdiction of all Associations and Subassociations.

## **ARTICLE III ASSOCIATION PROPERTY, COMMON AREA AND EASEMENTS**

### **3.1 Owners' Rights of Enjoyment**

**3.1.1 Common Area.** Every Owner of a Lot in a Phase of the Property shall have a right of ingress and egress and of enjoyment in, to and over the Association Property and Common Area in such Phase, and the same right to all Common Area and Association Property owned by the Master Association, which rights shall be appurtenant to and shall pass with fee title to such Owner's Lot.

The Owner of each Lot shall be liable to the Association for all damage to the Common Area and the improvements thereon (including landscaping) caused by such Owner, his agents, employees, guests, invitees or pets. The responsible Owner shall be charged with the cost of repairing such damage (including interest thereon).

**3.1.2 Limitations or Rights of Enjoyment.** All Owners' rights with respect to the Association Property and Common Area are subject to the following provisions:

a. **Guests.** The right of Declarant until the termination of Declarant's Membership in the Master Association, and thereafter the right of the Master Association and any Subassociation, to reasonably limit the number of guests, and/or business invitees of Owners using the Association Property or the Common Area.

b. **Rules and Regulations.** The right of Declarant until the termination of Declarant's Membership in the Master Association, and thereafter the right of the Master Association and any Subassociation to establish Rules and Regulations pertaining to the use of the Association Property or Common Area under such Association's jurisdiction.

c. **Fees.** The right of Declarant until the termination of Declarant's Membership in the Master Association, and thereafter the right of the Master Association and any Subassociation, to charge uniform and reasonable admission and other fees for the use of any facilities or improvements situated upon, or any recreational areas within, the Association Property or Common Area under such Association's jurisdiction.

d. **Discipline; Suspension of Rights.** The right of Declarant until the termination of Declarant's Membership in the Master Association, and thereafter the right of the Master Association and any Subassociation to discipline any Owner and/or to suspend the membership rights and rights and easements of any Owner, and anyone deriving such rights and easements from such Owner, to use the Association Property and Common Area under such Association's jurisdiction and the facilities and improvements located thereon, for any period during which any assessment against such Owner's Lot remains unpaid and/or delinquent and/or for any infraction of the Restrictions.

e. **Association Property and Common Area Transfers.** The rights of the Association and any Subassociation and of Declarant as set forth in this Declaration to convey easements, rights of way and portions of the Association Property and Common Area for roads, utilities, transportation, and traffic circulation systems and other purposes determined by them to be in the interest of the Owners. The Declarant shall have the express right, without limitation, to grant easements through common areas so long as it owns any Lots.

f. **Use By Declarant, Developers and Non-Residential Owners.** The right of Declarant, Developers and the Owners or operators of the Golf Course Area ("Non-Residential Owners") (and their employees, contractors and representatives) to enter upon the Association Property and Common Area, for the benefit of Declarant, the Developers or Non-Residential Owners or any combination of them, to construct any improvement thereon, and the right of Declarant and Developers (and their employees, sales agents, representatives, prospective purchasers and customers) to the nonexclusive use of the Association Property and Common Area and the improvements thereon, without charge, for sales, display, access, ingress, egress and exhibition purposes (the "Marketing Rights"), which Declarant hereby reserves and establishes for so long as it owns Lots. Such use shall not unreasonably interfere with the rights of enjoyment of the Owners as provided herein.

g. **Association Rights and Duties.** The right of the Master Association and any Subassociation to perform all duties and exercise all rights of such Association.

h. **Restricted Areas.** The right of the Master Association and any Subassociation, subject to the rights of Declarant, Developers and Non-Residential Owners set forth in this Section, to restrict access to the Golf Course Area and to slopes and other sensitive landscaped or environmentally fragile areas, maintenance facilities and other areas of the Association Property or Common Area under such Association's jurisdiction.

i. **Cabins, Townhomes and/or Condominium Rental program.** The Cabins, Townhomes and/or Condominiums may be subject to a Rental Agreement Program with the Declarant and/or assigns thereof upon such terms and conditions acceptable to Declarant and approved by Declarant in writing.

j. **Exterior Holiday Decorations.** Exterior Holiday decorations are permitted for a reasonable period of time before and after Holidays.

k. **Exterior Music.** Exterior music on or emanating from any Lot shall only be allowed for personal and social enjoyment within outdoor living spaces (i.e. patios, terraces, etc), provided it does not disturb others and is in compliance with all other Restrictions.

l. **Exterior Sculptures and Artwork.** All sculptures, artwork and/or other similar exterior decorating items visible from outside any Lot shall be submitted for review and approval by the Design Review Committee prior to installation. The Final Design submitted for review and approval shall include detailed information on size, location, materials, colors, mounting details and lighting. No exterior item will be approved that utilizes reflective materials, bright colors or excessive lighting.

m. **Garage Sales.** Garage sales shall only occur on a community- wide basis on dates, times, terms and conditions established by the Declarant. Community garage sales shall not be in excess of two times per year.

### **3.2 Parking and Traffic Control**

Parking shall be permitted within the Association Property and Common Area only within spaces and areas clearly marked for such purpose and for such limited times as determined by the Declarant or Board(s) of the Association(s) controlling such parking areas. The Association and any Subassociation are hereby empowered to establish "parking" and "non-parking" areas within the Property or Common Area under such Association's jurisdiction as well as to enforce these parking limitations, including the removal of any violating vehicle by those so empowered.

Parking shall be permitted on Common Areas and Association Property in

addition to private and public streets within the Property for special events, organized and conducted by owners or operators of the Golf Course Area and/or activities related to improvements and business activities thereon, subject to approval by Declarant until the termination of Declarant's Membership in the Master Association, and thereafter by the Board of the Master Association.

**3.2.1 Special Parking Restrictions.** On-street parking is prohibited on all short courts and Outlaw Drive and Vigilante Drive. Parking is limited to one side of the street on Bunkhouse Place, Trading Post Place, Corral Drive and Paniolo Place.

### **3.3 Waiver of Use**

No Owner may exempt himself from personal liability for assessments duly levied by any Association, nor release any Lot owned within the Property from the liens and charges hereof, by waiver of the use and enjoyment of the Association Property or Common Area and any facilities thereon, or by abandonment of a Lot, or by any other means.

### **3.4 Title to Association Property and Common Area**

**3.4.1 Transfer and Acceptance.** As each Phase of the Property is developed by Declarant, Declarant may at its discretion convey or cause to be conveyed: (i) to the Master Association, title to, or a nonexclusive easement for maintenance over, the Association Property or the Common Area and/or improvements in any Phase of development, and (ii) to any applicable Subassociation, title to, or a nonexclusive easement for maintenance over, the Association Property or the Common Area in any Phase of development.

a. The Master Association and any Subassociation shall each be unconditionally obligated to accept title to, and maintenance responsibility for, the Association Property or Common Area and/or improvements conveyed to it by Declarant, when title and maintenance responsibility is tendered.

b. Whenever any Common Area is conveyed by Declarant to the Association, an easement is automatically reserved (whether or not expressed in the conveyance document) under, in, upon, across, over, above and through such Common Area for the benefit of the remaining portions of the Property and/or other property that has not yet been annexed under this Declaration, for ingress, egress, access and all utilities and similar appurtenances, and for the construction, marketing and sale of Lots and/or improvements on such remaining portions of the Property and/or other property which is annexed under this Declaration.

**3.4.2 Character of Improvements.** The nature, design, quantity, quality and all other attributes of the Association Property and Common Area, and the facilities and

improvements thereon, shall be determined in Declarant's sole and absolute discretion and governed by the Design Guidelines adopted by the Declarant and the Design Review Committee.

### **3.5 Golf Course Easement**

**3.5.1 Reservation.** Declarant hereby reserves unto itself and its successors and assigns, together with the right to grant and transfer the same to any owner or operator of the Golf Course Area, a non-exclusive easement over the Property adjacent to and on each Lot, for the flight and/or landing of golf balls and for the noise associated with operation of the Golf Course Area, *at any time*, including but not limited to mowing and watering, fireworks displays, etc and related or accessory uses.

**3.5.2 Golf Course Liabilities.** By accepting the deed to a Lot, each Owner, for himself and his invitees, personal representatives, assigns, and heirs (collectively, the "Owner's Related Parties") hereby expressly (1) acknowledges the potential effect on his Residence and/or Lot of stray golf balls and other events inherent to the activities of a golf course within the Property (the "Golf Course Hazards"), (2) assumes the risk of any property damage, personal injury, creation or maintenance of a trespass or nuisance created by or arising in connection with the Golf Course Hazards (collectively, the "Assumed Risks") and (3) releases, waives, discharges, covenants not to sue, indemnifies and agrees to hold harmless Declarant, Developer, the Associations, the Boards, the other Members, the Owner of any improved Lot, and each of their respective officers, directors, members, managers, shareholders, employees, insurers, agents, representatives, affiliates, successors and assigns (collectively, the "Released Parties"), and each of them, from any and all liability to the Owner or Owner's Related Parties for any losses, costs (including, without limitation, attorneys' fees), injuries, damages, claims, demands, suits, judgments or other liabilities and/or obligations arising out of or connected with any of the Assumed Risks, to the maximum extent allowed by law. Notwithstanding the foregoing, however, in no event shall this Section relieve any golfer from any claims or liability for any Golf Course Hazard caused by or related to such golfer.

### **3.6 Other Liabilities**

By accepting the deed to a Lot, each Owner, for himself and his invitees, personal representatives, assigns, and heirs (collectively, the "Owner's Related Parties") hereby also expressly (1) acknowledges the potential risks and/or dangers created by, inherent to and/or arising in connection with the use and/or entry upon the Golf Course Area and related appurtenances; (2) assumes the risk of any damage or injury, whether to a person or persons or to property, created by, inherent to and/or arising in connection with the use and/or entry upon the Golf Course Area and related appurtenances; (3) to the maximum extent allowed by applicable law, releases, waives, discharges, covenants not to sue, indemnifies and agrees to hold harmless Declarant,

Developer, the Associations, the Boards, the other Members, the Owner of any improved Lot, and each of their respective officers, directors, members, managers, shareholders, employees, insurers, agents, representatives, affiliates, successors and assigns (collectively, the "Released Parties"), and each of them, from any and all liability to the Owner or Owner's Related Parties for any losses, costs (including, without limitation, attorneys' fees), injuries, damages, claims, demands, suits, judgments or other liabilities and/or obligations arising out of or connected with any of the foregoing risks. Notwithstanding the foregoing, nothing in this provision shall eliminate or limit the liability of any individual and/or entity for acts or omissions which involve intentional misconduct, fraud or a knowing violation of the law.

### **3.7 Boulevard Improvements and Maintenance**

**3.7.1 Maintenance of Street Trees and Boulevard Areas.** The Ranch Club Subdivision contains areas proposed for landscaping between the sidewalk and the street curb, hereinafter referred to as "Boulevard(s)." Planting and maintenance of the Boulevard areas shall be in accordance with the following provisions:

**3.7.2 Boulevard Landscape Improvements.** All Boulevards shall be landscaped in accordance with The Ranch Club Design Guidelines, as amended (Design Guidelines), and City of Missoula Boulevard Ordinance 12.32 and 12.48. All landscaping and irrigation shall be maintained by the Master Association or adjoining Lot owner unless specifically stated otherwise in this provision. The landscaping shall be irrigated with automatic underground irrigation.

Boulevards shall be landscaped consistent with the adjacent Landscape Style as described in the Design Guidelines. The Ranch Club Design Guidelines promotes clusters of small trees with massing of shrubs, ground covers and ornamental grasses woven throughout the development. The Boulevard areas will be designed and planted contiguous with the adjacent areas to provide a cohesive landscape that reflects the native landscape or adjacent 'Landscape Style' as described in the Design Guidelines.

The tree planting quantities for all boulevard areas shall be based on the number of trees required at 30 feet on center for the linear feet of roadway adjacent each property. The quantity will be located to form clusters that are balanced throughout the planting design of the boulevard planting areas in combination with similar planting treatments on the adjacent Lots. City of Missoula intersection clearance requirements shall be followed.

Low water use turf may be incorporated where consistent with the adjacent landscape forms and where required for special uses. A Boulevard Plant List and Typical Layout is included as an Appendix in the Design Guidelines.

Boulevard landscaping shall conform to the following provisions:

a. **Center Boulevard.** The “Center Boulevard” is defined as the landscaped island in Ranch Club Road at the western entrance to the subdivision. The Center Boulevard trees, landscaping and irrigation shall be installed by the Declarant and maintained by the Master Association. The Center Boulevard will use water supplied by the golf irrigation system.

b. **Residential Boulevards.** . The “Residential Boulevards” adjoin the frontage of residential lots. The Lot Owner shall provide a finish grade for the adjoining Boulevard that meets flush with the bordering curb and sidewalk. The Lot Owner shall submit a Landscape Plan to the Design Review Committee for review and approval. The Boulevard Landscape Plan shall provide pedestrian access points from the parking lane to the sidewalk. The Declarant will install boulevard trees as shown on the approved Landscape Plan. The Lot Owner shall then install landscaping and irrigation as shown on the approved Landscape Plan. Irrigation shall be sufficient to water all landscaping and include at least one spray head zone for turf and one drip irrigation zone for trees and plants. The Lot Owner shall maintain and replace all of the landscaping within the adjoining Residential Boulevards. If the Lot Owner fails to maintain and replace the Residential Boulevard trees, then the Master Association shall do so. Residential Boulevards shall use domestic irrigation supplied by the Lot Owner fronting the Residential Boulevard.

c. **Golf Boulevards.** The “Golf Boulevards” adjoin the frontage of the golf course and its facilities. The Declarant will install Boulevard trees, landscaping and irrigation for the Golf Boulevards in accordance with The Ranch Club Design Guidelines. The Master Association shall maintain and replace all of the landscaping and irrigation within the Golf Boulevards. Golf Boulevards will use water supplied by the golf irrigation system.

d. **Common Area and Utility Lot Boulevards.** The “Common Area and Utility Lot Boulevards” adjoin the frontage of the Common Areas and Utility Lots. The Declarant shall install Boulevard trees, landscaping and irrigation for the Common Area and Utility Lot Boulevards in accordance with the Design Guidelines. The Master Association shall maintain and replace all of the landscaping and irrigation within the Common Area and Utility Lot Boulevards; these areas may use domestic irrigation supplied by the public water system.

e. **Saddlehorn Road Boulevards.** The “Saddlehorn Road Boulevards” front Country Crest, a platted subdivision of Missoula County. The Declarant shall install Boulevard trees, landscaping and irrigation for the Saddlehorn Road Boulevards in accordance with The Ranch Club Design Guidelines. The Master Association shall maintain and replace all of the landscaping and irrigation within the Saddlehorn Road Boulevards; these areas shall use domestic irrigation supplied by the public water system.

**3.7.3 Special Responsibilities for Maintenance.** The Declarant is responsible for the initial planting of the Boulevard trees and has sole discretion as to the time of planting to coordinate with construction activities. The entity and/or owner responsible for maintenance of the Boulevard areas, defined in the above paragraphs, shall make provision for the maintenance and irrigation of the Boulevard areas for which they have responsibility. Replacement of any dead or dying vegetation, including, but not limited to, trees, in the Boulevard areas is the responsibility of the entity and/or owner charged with maintenance responsibilities and shall be replaced within thirty (30) days, weather permitting. Any dead or dying landscaping that is not replaced within thirty (30) days, weather permitting, may be replaced by the Declarant or successor Master Association (at their sole discretion and without obligation), the cost of which shall be billed to and paid by the entity and/or owner responsible for maintenance. Unpaid charges for replacing dead or dying vegetation, including, but not limited to, trees, shall become a lien against the Property of the responsible person and/or entity.

### **3.8 Maintenance Easement**

An easement over each Lot as the servient tenement is reserved by Declarant in favor of each other Lot as the dominant tenement, and in favor of Declarant, the Master Association and any applicable Subassociation, for the purpose of allowing the Declarant, the Master Association and/or any applicable Subassociation, and/or the agents or employees of any of the foregoing, the right, but not the obligation, to enter the Lot to perform any maintenance as the Declarant, the Master Association and/or any applicable Subassociation may do in accordance with the provisions of the Restrictions.

### **3.9 Drainage Easements and Related Drainage Systems**

No Owner or occupant shall commit any act that would interfere with the operation of any drainage system (including drainage ways) existing and/or installed on the Property and/or all Owners' Lots. The Owner shall maintain the drainage system free of debris and other obstacles at all times. Reciprocal appurtenant easements between each Lot and the Common Area and between adjoining Lots are reserved for the flow of water in the storm drainage system.

Roof drain collection lines may be installed for some Lots or Phases. If roof drain collection lines are provided, all roof drains from each house shall be directly connected to the roof drain collection line. A roof drain service stub may be provided to a Lot. The roof drain service stub is 4" PVC Sch 40 pipe. The roof drain lines from the house to the service stub shall be 4" PVC or flexible HDPE drain pipe with appropriate transition fitting the Sch 40 service stub. The service stub elevation shall be verified before installation of drain lines to ensure connection. Drain lines from the house to the service stub shall maintain positive grade with a minimum 1% slope. A minimum of

one clean out shall be provided at the house to clean the line to the service stub. Additional clean outs may be required based on roof drain and drain line configuration. Only direct runoff from the house roof shall be permitted to be connected to the roof drain line. The Developer will provide a list of Lots and/or Phases that are required to connect to a roof drain collection line.

All drainage systems shall be maintained by the Master Association or applicable Subassociation.

### **3.10 Other Easements**

The Common Area and each Lot are subject to all easements, dedications and rights of way granted or reserved under, in, upon, across, over, above and through the Property as shown on any Plat Map for the Property, other recorded document or as otherwise provided in this Declaration .

### **3.11 Rights of Entry and Use**

The Lots and Common Area shall be subject to the right, but not the obligation, of the Declarant, the Master Association and/or any applicable Subassociation, and/or the agents or employees of any of the foregoing, to enter any Common Area and/or Lot without consent to cure any violation of this Declaration, the Articles, Bylaws or Rules, provided that at least twenty-four (24) hours prior notice is given to the Owner (except in the case of an emergency or other situation requiring action in a short period of time) and the Owner has failed to cure the violation or take steps necessary to cure the violation within ten (10) days after being sent written notice of a violation.

### **3.12 Easements to Accompany Conveyance of Lot**

Easements that benefit or burden any Lot shall be appurtenant to that Lot and shall automatically accompany the conveyance of such Lot, even though the description in the instrument of conveyance may refer only to the fee title to the Lot.

### **3.13 All Easements Part of Common Plan**

Whenever any easements are reserved or created herein, such easements shall constitute equitable servitudes for the mutual benefit of each Lot within the Property, even if only certain Lots are specifically mentioned as subject to or benefitting from a particular easement, and when easements referred to herein are subsequently created or reserved by deeds or conveyances, such easements are to be considered to be part of the common plan created by this Declaration for the use and benefit of Declarant and all Owners within the Property.

### **3.14 Damage or Destruction**

If any improvement or landscaping on any Lot are damaged or destroyed, the Owner of such Lot may repair or reconstruct the improvement only in accordance with the plans and specifications approved by the Master Association or its representative as provided herein, including, but not limited to, approval by the Design Review Committee. In the event that such an Owner elects not to rebuild any structures, said Owner shall be responsible for promptly removing from the Lot any and all debris, including any portion of a structure which may remain standing after partial damage or destruction, and the Owner shall landscape the Lot in the manner approved by the Design Review Committee. If such an Owner elects to rebuild the damaged or destroyed improvements, the Owner of such Lot is responsible for the cost of all such reconstruction. If an Owner fails to pay the cost of required demolition or re-landscaping, the Master Association may elect to pay the same, to assess the Owner for the cost thereof and to enforce the Assessment as provided in this Declaration.

If Common Area improvements are damaged or destroyed by fire or other casualty, the improvements shall be repaired or reconstructed substantially in accordance with the original as-built plans and specifications, modified as may be required by applicable building codes and regulations in force at the time of such repair or reconstruction, and subject to such alterations or upgrades as may be approved by the Design Review Committee.

## **ARTICLE IV ASSOCIATIONS**

### **4.1 Organization**

**4.1.1 Master Association.** The Master Association is charged with the duties and vested with the powers prescribed by law, subject to the limitations and provisions of its Articles, Bylaws, and this Declaration. Neither the Articles nor Bylaws shall, for any reason, be amended or otherwise changed so as to be inconsistent with this Declaration. If there is any ambiguity or inconsistency in any provision of the Articles or Bylaws, then such provision shall be read and construed together with the provisions of this Declaration so as to be consistent with the provisions of this Declaration to the extent possible, and in all cases the Declaration shall control and govern any claimed or actual ambiguity or inconsistency. The provisions of this Declaration, and Articles and/or Bylaws shall also be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion thereof shall not affect the validity or enforceability of any other provision or portion thereof.

**4.1.2 Subassociations.** Subassociations of Lot Owners may be organized as Montana non-profit mutual benefit corporations. Any Subassociation is charged with the duties and vested with the powers prescribed by law, subject to the limitations and provisions of its Articles, Bylaws, and this Declaration. Neither its Articles nor Bylaws shall, for any reason, be amended or otherwise changed so as to be inconsistent with this Declaration. If there is any ambiguity or inconsistency in any provision of the Articles or Bylaws, then such provision shall be read and construed together with the provisions of this Declaration so as to be consistent with the provisions of this Declaration to the extent possible, and in all cases the Declaration shall control and govern any claimed or actual ambiguity or inconsistency. The provisions of this Declaration, and Articles and/or Bylaws shall also be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion thereof shall not affect the validity or enforceability of any other provision or portion thereof.

## **4.2 Master Association**

**4.2.1 Membership/Voting.** Any individual and/or entity, including Declarant, Developers and contract sellers, shall upon becoming an Owner of one (1) or more Lots, automatically be a Member of the Master Association, and shall remain a Member thereof until such time as his ownership ceases for any permitted reason. The foregoing is not intended to, nor shall it, include persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to, and may not be separated from, ownership of a Lot. Membership shall be held in accordance with this Declaration, the Articles, Bylaws and Rules as amended from time to time. Declarant shall be a Member of the Master Association for all Lots owned by Declarant and all Property designated in the Master Plan to become Lots in the future.

a. As provided in the Articles of Incorporation of the Master Association (Article VI) and the Bylaws (Section 3.7), each Member shall have one vote for each Lot owned by the Member; except for Declarant which shall be entitled to ten (10) votes for each Lot owned.

b. Ownership of any Lot in the Property shall be the sole qualification for an Owner's membership in the Master Association. When more than one person or any entity holds an interest in a Lot, all persons or the entity shall be Members, but the vote for such Lot shall be exercised only by one (1) Member whose name shall be provided in writing (signed by all persons and/or entities holding an interest in the Lot, except persons or entities who hold an interest merely as security for the performance of an obligation) to the Master Association at least ten (10) days prior to any vote as the Members determine and, except for Declarant, in no event shall more than one vote be cast for any Lot, as provided in Sections 4.4 and 4.5.1 below.

c. Membership in the Master Association shall be in addition to

membership in any Subassociation responsible for any Phase of the Property in which an Owner's Lot is located.

d. A Member transferring his interest shall remain jointly and severally liable subsequent to such transfer for all charges and assessments attributable to his interest prior to the date his interest is transferred.

**4.2.2 Annual Meeting.** There will be a meeting of the Members of the Master Association each year. Until the Declarant's Master Control Termination Date, as defined herein, the Board of Directors of the Master Association will consist of three (3) Directors appointed by the Declarant, who together will constitute all of the members of the Board of Directors of the Master Association.

**4.2.3 Appointment and Removal of Directors of Master Board and Officers of Master Association.** Declarant reserves the right to appoint and remove all of the Directors of the Master Board; and all of the officers of the Master Association, until the earlier of the following events:

(i) Sixty (60) days after conveyance of 100% of Lots in the Property, and any other real property made subject to this Declaration; or

(ii) If Declarant approves the relinquishment of its rights hereunder, in a written recorded document; or

(iii) October 2, 2027, or such longer period as is lawful under the rule against perpetuities.

Declarant has the right to designate a person or persons to exercise the rights reserved to Declarant hereunder. The date on which the rights reserved by Declarant under this subsection terminates is herein called "the Declarant's Master Control Termination Date." From and after the Declarant's Master Control Termination Date, the Directors of the Master Board and the officers of the Master Association will be elected and appointed as provided in the Master Bylaws.

#### **4.3 Subassociations**

**4.3.1 Membership.** Each Owner of a Lot shall be a Member of any Subassociation covering such Phase of the Property. Membership in the Subassociation shall be appurtenant to the Lot owned by such Member and may be transferred only in accordance with the provisions of this Article. Voting in Subassociations shall be on the same basis for the Master Association – i.e., only one vote for each Lot owned, except for Declarant which shall have 10 votes for each Lot owned.

**4.3.2 Annual Meeting.** There will be an annual meeting of the Members of any Subassociation formed by its Lot Owners. The first meeting of the Members of a Subassociation will be held no later than forty-five (45) days after the close of escrow for the sale to non-Developer purchasers of a majority of the Lots in any Phase of development, and in no event may the first meeting be held later than six (6) months after annual assessments have commenced in such Phase. Until the Declarant's Master Control Termination Date, the Board of Directors of any Subassociation will consist of three (3) directors appointed by the Declarant or elected by the Developer of the Subassociations Members if Declarant declines to appoint Directors, in writing.

### **4.3.3 Appointment and Removal of Directors and Officers of Subassociation.**

a. **Appointment and Removal of Directors.** Subject to the provisions of this Section, the right to appoint and remove all of the Directors of the Board and all of the officers of any Subassociation shall be vested in the Declarant, until the Master Control Termination Date. Declarant has the right to transfer such rights to any Developer or to the Members of a Subassociation.

b. **Persons Entitled to Serve on the Board.** Except for the Directors of the Board appointed by Declarant in accordance with this Declaration, all Directors of any Subassociation must be Members of the Subassociation. All Directors of the Subassociation must (i) be at least eighteen (18) years of age, and (ii) must meet the eligibility requirements further set forth in its Bylaws.

## **4.4 Classes of Voting Membership**

The Master Association and any Subassociation shall have only one class of voting membership. So long as the Declarant is Owner of more than one Lot, Declarant shall have ten (10) votes for each Lot it owns. If Declarant owns no Lots in a Phase, it shall have no votes in the Subassociation of that Phase.

## **4.5 Matters Affecting All Associations**

**4.5.1 Co-Owners; Fractional Votes.** If there is more than one (1) record Owner of any Lot, any and all of the Owners may attend any meeting at which such Member is entitled to vote, but the vote attributable to the Lot shall not be increased by reason thereof. (See Section 4.2.1(b), above.)

**4.5.2 Proxies.** At any meeting of the Members of any Association, any Member entitled to attend, vote at or exercise consents at such meeting may designate a proxy in the manner provided in the Bylaws of such Association.

**4.5.3 Quorum.** Subject to the limitations in this Declaration, the presence at any meeting of the Members entitled to vote at least fifty percent (50%) of the total

voting power of such Association shall constitute a quorum. For purposes of determining whether a quorum is present for the election of any Director of any Board, only the Members present at such meeting and the proxies that are delivered in writing to the applicable Association may be counted.

**4.5.4 Suspension of Membership Rights.** The Board of Directors of any Association shall have the authority to suspend the membership rights of any Member, including the right to vote at any meeting of an Association, for any period during which the payment of any assessment, interest, fines and/or fees against such Member is delinquent and/or unpaid.

#### **4.6 Transferred Membership**

Membership in the Master Association and any Subassociation shall not be transferred, encumbered, pledged, or alienated in any way, except upon the sale or transfer of the Lot to which it is appurtenant, and then only to the purchaser, in the case of a sale, or to a Mortgagee that has foreclosed or received a deed in lieu of foreclosure, in the case of an encumbrance. On any transfer of title to an Owner's Lot, membership shall automatically pass with such transfer. A Mortgagee shall not have membership rights until it obtains title to the Lot through foreclosure or deed in lieu thereof. No Owner may resign or waive his Membership.

On receipt of notice of written notice of a permitted transfer, the Association shall record the transfer on its books. Any attempt to make a prohibited membership transfer shall be void and will not be reflected on the books of the Master Association. A Member transferring his interest shall remain jointly and severally liable subsequent to such transfer for all charges and assessments attributable to his interest prior to the date his interest is transferred.

## **ARTICLE V FUNCTIONS OF THE ASSOCIATIONS**

### **5.1 Master Association**

**5.1.1 General Powers and Duties.** Subject only to such limitations upon the exercise of such powers as are expressly set forth herein and in its Articles and Bylaws, the Master Association shall have all of the powers of a Montana nonprofit, mutual benefit corporation, including, but not limited to, the following:

a. **Assessments.** The power and the delegatable duty to levy assessments on the Owners of Lots and other interests in the Property designated by Declarant, and to collect and enforce payment of such assessments in accordance with

the provisions of Article VI hereof.

b. **Rights of Entry and Enforcement.** The power, but not the duty, to enter upon any Lot, Common Area, or Association Property without being liable to any Owner or any Association, except for physical damage caused by such entry, for the purpose of enforcing by peaceful means the provisions of this Declaration, or for the purpose of maintaining or repairing any improvement if for any reason whatsoever the Owner or any Association responsible therefor ("Responsible Party") fails to maintain and repair any such improvement as required. The cost of any such maintenance and repair is the responsibility of such Responsible Party and shall be assessed against the Responsible Party as a special assessment.

The Responsible Party shall, within ten (10) days of notice of the cost of such work, pay all such amounts due for such work, and the costs and expenses of collection. Any physical damage caused by an entry upon any portion of the Property shall be repaired by the entering party.

c. **Easements and Rights-of-Way.** The power, but not the duty, to grant and convey to any individual and/or entity with the written consent of Declarant easements and rights-of-way in, on, over or under the Property, subject to the Lot Owner's rights herein.

d. **Construction on Property.** The power, but not the duty, to construct new improvements or additions to the Property or any other property, or demolish existing improvements and to maintain and repair existing improvements, in accordance with this Declaration.

e. **Management, Repair and Maintenance.** The power and duty to manage, maintain and repair in a neat and attractive condition, all Property including, without limitation, all private and public streets and drives, landscaping, utilities, recreational facilities, walls, fences or other improvements located on, in or under Property or constituting Property, in a safe, sanitary and attractive condition and in good order and repair, and in accordance with all applicable laws and regulations. All of the foregoing obligations of the Master Association shall be discharged when and in such manner as the Master Board shall determine in its judgment to be appropriate.

No Owner or any Association shall place or install any sign or other improvement or alter or remove the improvements on the Association Property or Common Area (including, without limitation, any Association Property wall adjacent to a Lot or Common Area) unless such placement, installation or alteration is first approved in writing by the Design Review Committee. No Owner or Association shall affix any object or device to any Association Property wall, pierce the surface or otherwise expose the interior portion of such wall to the elements or install landscaping, irrigation systems or other improvements on any Lot, Association Property or Common Area in

such proximity or manner so as to undermine or otherwise impair the structural integrity of any Association Property wall or impair the finish thereon.

f. **Legal and Accounting Services.** The power, but not the duty, to retain and pay for legal and accounting services necessary or proper in performing any of the duties or rights of the Master Association.

g. **Financial Statements.** The power and the delegatable duty to cause to be prepared the budgets and financial statements for the Master Association as required in this Declaration.

h. **Payment of Taxes.** The power and the delegatable duty to pay all taxes and assessments which are, or could become, a lien on the Property, or any portion thereof.

i. **Insurance.** The power and the delegatable duty to maintain such policy or policies of insurance as the Master Board deems necessary or desirable in furthering the purposes and protecting the interests of the Master Association and its Members.

j. **Utility Services.** The power and the delegatable duty to obtain, for the benefit of the Association Property and Common Area, commonly metered water, gas, electric or other utility services necessary for the maintenance of the Association Property and Common Area.

k. **Enforcement.** As set forth herein, the power to enforce the provisions of this Declaration, the Articles, and Bylaws, and all other Rules and Regulations adopted by the Master Board and Design Review Committee from time to time.

l. **Rules and Regulations.** The power to adopt such Rules and Regulations as it deems proper for the development, use and occupancy of the Property; provided, however, all Rules and Regulations must be approved in writing by the Declarant until the Declarant's Membership terminates. A copy of the Rules and Regulations, as they may from time to time be adopted, amended or repealed, may be posted in a conspicuous place in the Property and shall be mailed or otherwise delivered to each Owner.

m. **Inspection and Maintenance Guidelines.** The power to adopt inspection and maintenance guidelines for the periodic inspection and maintenance of the Common Area improvements and landscaping and any other improvements outside the Common Area which the Association has the responsibility to maintain. The Master Association periodically and at least once every two years may review and update the inspection and maintenance guidelines. The Master Association may take all appropriate steps to implement and comply with the inspection and maintenance

guidelines.

**5.1.2 Restrictions on Power of Master Board.** The Master Association shall be prohibited from doing any of the following without the prior vote or written assent of a majority of the voting power of the Master Association:

a. Incurring aggregate expenditures in any fiscal year for capital improvements to any portion of the Property, in excess of ten percent (10%) of the budgeted gross expenses of the Master Association for that fiscal year, unless such expenditures are approved by Declarant.

b. Paying compensation to members of the Master Board or to officers of the Master Association for services performed in the conduct of the Master Association's business; provided, however, that the Master Board may cause a director or officer to be reimbursed for expenses incurred in carrying on the business of the Master Association, and/or may advance the expenses estimated to be incurred in carrying on the business of the Master Association.

c. Entering into any contracts for goods or services with a duration greater than one (1) year with the following exceptions:

(i) A property management contract;

(ii) A contract with a utility company or provider;

(iii) Prepaid casualty and/or liability insurance policies not to exceed three (3) years duration, provided that such policy permits short rate cancellation by the insured;

(iv) Lease agreements for agreements for satellite dish television services and equipment, and agreements for sale or lease of burglar alarm and fire alarm equipment, installation and services, not to exceed five (5) years duration, provided the lessor under the agreement is not an entity in which Declarant has a direct or indirect ownership interest of ten percent (10%) or more; and/or

(v) Agreements for cable television installation, equipment and services not to exceed twenty-five (25) years duration, provided the operator under the agreement is franchised or licensed by the City or County of Missoula and is the cable television supplier for the area in which the Property is located.

## **5.2 Subassociations**

**5.2.1 Powers and Duties.** Any Subassociation shall have all of the powers of Montana non-profit mutual benefit corporations, subject only to such limitations upon

the exercise of such powers as are expressly set forth herein, and in any Articles or Bylaws of any Subassociation; and shall have the powers and duties as the Master Association may delegate to it. Provided, however, that no Subassociation shall have any authority over Property other than Property in the Phase for which such Subassociation is created.

**5.2.2 Rules and Regulations.** The power and duty to adopt such Rules and Regulations as its Board deems proper for the use and occupancy of any Association Property or Common Area in a Phase of the Property for which such Subassociation is created; provided, however, all Rules and Regulations must be approved in writing by the Declarant until the Declarant's Master Control Termination Date. A copy of such Rules and Regulations, as they may from time to time be adopted, amended or repealed, may be posted in a conspicuous place in the Common Area and shall be mailed or otherwise delivered to each Owner.

**5.2.3 Slopes.** The power and duty to implement such soil erosion control, slope stabilization and support maintenance procedures and landscaping as its Board deems appropriate, within the slope easements shown in the plat of a Phase for which such Subassociation is created, or as granted by any recorded document or designated for maintenance by the Subassociation; and to maintain, in such manner as the Board shall determine to be appropriate, such slope easement areas in accordance with this Article. Provided, however, that the level and frequency of such maintenance may not be altered without the written approval of the Declarant until its Membership terminates.

## **ARTICLE VI FUNDS AND ASSESSMENTS**

### **6.1 Obligation for Assessments and Liens**

Developers and every other Owner of any Lot, except Declarant, by acceptance of a deed or other conveyance therefor (whether or not it shall be so expressed in such deed or such other instrument), is deemed to warrant, covenant and agree, to pay to the Master Association, and any Subassociation as applicable, the following assessments: (i) annual assessments for annual expenses, (ii) capital improvement assessments, and (iii) special assessments. Declarant's Lots are non-assessable. The foregoing assessments shall be established and collected as hereinafter provided. In the event that any taxes are assessed against the Common Area, or the personal property of the Association, rather than against the Lots, said taxes shall be included in the Assessments made under the provisions of this Article and, if necessary, a special Assessment may be levied against the Lots in an amount equal to said taxes.

All assessments, together with interest, costs, and reasonable attorneys' fees for the collection thereof, shall be a charge on the land and shall be a continuing lien upon the Lot against which such assessment is made.

## **6.2 Maintenance Funds**

The Boards of Directors of the Master Association and any Subassociation shall each budget, establish and maintain at least the following separate accounts (the "Maintenance Funds") into which shall be allocated all monies paid to each respective Association, and from which disbursements shall be made, as provided herein, in the performance of each Association's respective functions:

a. **General Operating Fund.** A General Operating Fund for current expenses of such Association.

b. **General Reserve Fund.** A General Reserve Fund for the deposit of Reserves attributable to improvements within the applicable Association Property or Common Area.

c. **Miscellaneous Maintenance Funds.** Any other Maintenance Funds which the Board of Directors of any Association may establish, to the extent necessary or desirable under the provisions of the Restrictions.

## **6.3 Use of Funds**

All amounts deposited into the Maintenance Funds must be used solely for the common benefit of the Owners who are Members of the respective Association establishing such Funds, for the purposes authorized by the Restrictions, as they may be amended from time to time. Disbursements from the particular Maintenance Funds shall be limited to specific purposes as follows:

a. **General Operations.** Disbursements from the General Operating Fund shall be made for such purposes as are necessary for the discharge of the responsibilities under the Restrictions of the respective Association establishing such Fund, for the common benefit of all Owners who are Members of such Association, other than funding reserve expenditures specified in subsection 6.3(b) below.

b. **General Reserves.** Disbursements from the General Reserve Fund shall be made solely for the purpose of funding those reserve expenditures of the Association establishing such Fund. The General Reserve Fund may be used only for expenses that involve repairs, replacement or restoration of the major components of the Association Property or Common Area, as applicable, including, without limitation, repairing and replacing roofs (if applicable), roads, the drainage systems (as amended), landscaping and sidewalks, and must not be used for daily maintenance.

## **6.4 Annual Assessments**

Sums sufficient to pay annual expenses shall be assessed as annual assessments against the Owners of Lots pursuant to the following subsections.

**6.4.1 Budget.** Before the beginning of each fiscal year of each Association, the Board of each Association will meet for the purpose of preparing the proposed Budget for the next succeeding fiscal year and establishing the Annual Assessment for such fiscal year. The Budget must include, without limitation, the estimated annual revenue and expenditures of the applicable Association and any contributions to be made to the General Reserve Fund of the applicable Association. Before the beginning of each fiscal year of each Association, the Board of each Association will adopt a proposed Budget for such fiscal year, provide and make available a copy of such proposed Budget to each Owner of a Lot within such Association, and set a date for a meeting of such Owners to consider ratification of the Budget, which date must be not less than fourteen (14) days nor more than thirty (30) days after mailing of the proposed Budget. Unless at that meeting sixty-seven percent (67%) of the total voting power of the applicable Association vote to reject the proposed Budget, the proposed Budget will be deemed ratified by the Members, whether or not a quorum is present at such meeting. If the proposed Budget is so rejected, the Budget last ratified by the Members of such Association shall be continued until such time as such Members ratify a subsequent Budget proposed by the applicable Board.

**6.4.2 Assessment Units.** The annual expenses of the Associations shall be allocated among the Owners and their respective Lots. Each Lot, and the Owner thereof, except Declarant, shall be allocated one (1) assessment Unit. No assessment Units shall be allocated to Declarant and/or Lots owned by Declarant.

**6.4.3 Determining Annual Assessments.** In determining the annual assessment for each Association, the annual expenses of such Association shall be divided by the number of assessable Units allocated by such Association to all Lots assessable by such Association (the "Per Unit Annual Assessment"). Lots owned by Declarant shall not be assessed. The annual assessment payable by the Owner of each assessable Unit shall be determined by multiplying the number of units allocable to such Owner by the amount of the Per Unit Annual Assessment.

## **6.5 Commencement and Levy of Annual Assessments**

**6.5.1 Date of Commencement of Annual Assessments.** Annual assessments shall commence as to each Lot upon sale of the Lot by Declarant. Each such Unit shall thereafter be subject to their share of the established annual assessments as set forth herein. The first year's annual assessments shall be adjusted according to the number of months remaining in the fiscal year.

**6.5.2 Levy of Assessments.** All installments of annual assessments shall be collected in advance on a regular basis, at such frequency and on such due dates as the Board of Directors of the Master Association and any Subassociation shall determine from time to time in their sole and absolute discretion.

**6.5.3 Pre-Emption By Master Association.** In the event any Subassociation fails to levy assessments ("Sub-Association Assessments"), or fails to duly operate and maintain any Association Property or Common Area which is the responsibility of such Association (the "Non-Performing Association"), as provided herein, the Master Association may elect to preempt the rights of the Non-Performing Association and may fix, levy, collect and enforce said Subassociation assessments, and arrange to correct such deficient operation and maintenance.

**6.5.4 Miscellaneous.** Upon dissolution of a Subassociation incident to the abandonment or termination of the maintenance of the Association Property or Common Area for which such Association was responsible, any amounts remaining in any funds for such Association shall be distributed proportionately to or for the benefit of the Members of such Subassociation.

## **6.6 Capital Improvement Assessments**

The Board of Directors of each Association may levy, in any fiscal year, a capital improvement assessment, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Association Property or Common Area for which such Association is responsible, including fixtures and personal property related thereto; provided that any proposed capital improvement assessment to be levied by the Master Association or the Subassociation in any fiscal year which, if added to the capital improvement assessments already levied during such fiscal year, exceeds five percent (5%) of the budgeted gross expenses of such Association for such fiscal year, shall require the vote or written consent of a majority of the voting power of such Association present at a duly called and noticed meeting of the Members. All capital improvement assessments must be fixed for all Units in the same manner and in the same proportions as annual assessments are levied, except for Lots owned by Declarant which are non-assessable, and they shall be collected in the manner and frequency determined by the levying Board of Directors from time to time. Written notice of any meeting during which a Capital Improvement Assessment is to be considered must be delivered to each Member of the levying Association not less than twenty-one (21) days prior to such meeting.

## **6.7 Special Assessments**

Each Association shall levy a special assessment against any Owner or Subassociation that fails to comply with the provisions of this Declaration, the

Restrictions, the determinations of the Design Review Committee, and/or the Rules and Regulations, if such failure results in the expenditure of monies by the Association levying such special assessment in carrying out its functions hereunder, or for purposes of collecting any fines which may be levied by any Association as a reasonable fine or penalty for noncompliance with the Restrictions or the Rules and Regulations.

#### **6.8 Exempt Property**

The following property subject to this Declaration shall be exempt from the assessments herein:

- a. Those portions of the Property dedicated in fee and accepted by a public body, agency or authority, including any Utility Lot;
- b. All Association Property and Common Area; and
- c. All Lots and/or other property owned by Declarant.

#### **6.9 Remedies of the Associations**

Any installment of any assessment not paid within thirty (30) days after the due date shall bear interest from the due date of such installment at twelve percent (12%) or the highest allowed by law, as determined by the Board of Directors of the levying Association. Additionally, such Board may levy a late charge in addition to the interest charged as described above to compensate such Association for increased bookkeeping, billing and other administrative costs. If any installment of an assessment is not paid within thirty (30) days after it is due, the levying Association may bring an action at law against the Owner or Association obligated to pay the same, to foreclose the lien against the Lot of such Owner. No Owner may waive or otherwise escape liability for assessments provided for herein by non-use of the Property or any Common Area, or abandonment, sale or other transfer of his Lot. No Foreclosure sale shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereon.

Each Owner waives, to the maximum extent permitted by law, the benefit of any Montana homestead or exemption laws in effect when any Assessment or installment becomes delinquent or a lien is imposed.

#### **6.10 Collection of Assessments**

The right to collect and enforce assessments is vested in the Board acting for and on behalf of the levying Association. The Board of the levying Association or its authorized representative can enforce the obligations of the Owners

to pay Assessments provided for in this Declaration by commencement and maintenance of a suit at law or in equity; or the Board of the levying Association may enforce by judicial proceedings or, to the extent permitted by applicable law, through the exercise of the power of sale granted to the Board of the levying Association pursuant to applicable statutes and laws, and this Declaration. A suit to recover a money judgment against an Owner for unpaid assessments together with all other amounts due hereunder is maintainable without first foreclosing against the Lot which is subject to the lien for such assessment or waiving the lien rights granted hereby.

#### **6.11 Lien for Assessments; Priority**

All sums assessed to any Lot pursuant to this Declaration, and all fines, fees or other charges imposed by any Association against the Owners of a Lot, together with interest thereon as provided herein, shall be secured by a lien on such Lot in favor of the applicable Association from the date the assessment or fine becomes due.

#### **6.12 Enforcement of Lien**

Any Association may establish procedures for collection of obligations, and may prepare, record and enforce liens for payment of any assessments, interest, fines and/or fees as necessary and appropriate, in conformity with Montana law.

### **ARTICLE VII USE RESTRICTIONS**

#### **7.1 General Development and Use Restrictions**

Subject to the exemptions of Declarant and Developers as set forth in this Declaration, all of the Property shall be held, used and enjoyed subject to the following limitations and restrictions.

**7.1.1 Aircraft.** No aircraft, including helicopters, shall be permitted anywhere in the Property.

**7.1.2 Exterior Installations.** In order to preserve the aesthetic and visual integrity of the Property, no exterior radio antenna, television antenna, "C.B." antenna, "satellite dish," microwave transmitting or receiving antenna or other antenna, transmitting or receiving device of any type exceeding 36 inches in diameter or length shall be maintained on any Lot or Common Area in the Property. No exterior air conditioning or heating unit shall be erected or maintained on any Lot or Common Area in the Property unless it is (a) reasonably screened from view from any public or private

street and from anywhere outside of the Lot or Common Area in which it is located and (b) approved in writing by the Design Review Committee. Flagpoles which are not attached to a residence shall not be erected or maintained on any Lot unless it is approved in writing by Declarant. A master antenna or cable television antenna may, but need not, be provided by Declarant, and Declarant may grant easements for the installation and maintenance of any such master or cable television service. This Section shall not apply to, nor restrict, master antennae, cable television antennae or head end system for any cable television system installed by Declarant or by a franchised or licensed cable television operator approved by Declarant.

**7.1.3 Community Parking, Transportation and Circulation Systems.** There shall be no community or other parking lots or areas, or public transportation or transit systems or other traffic circulation systems established or operated anywhere in the Property, except as established, operated or approved by Declarant in writing.

**7.1.4 Drainage; Storm Drain System.** There shall be no interference with the rain gutters, downpours, or drainage or storm drain systems originally installed by Declarant or any Developer, or any other interference with the established drainage pattern over any Lot, Association Property or Common Area, unless an adequate alternative provision, previously approved in writing by the Declarant, is made for proper drainage.

**7.1.5 Entrance Gates.** Except for those entrance gates constructed by Declarant, or constructed by a Developer pursuant to a development agreement between Declarant and such Developer, no entrance gate shall be erected, altered or maintained unless first approved by Declarant in writing.

**7.1.6 Mechanical Equipment; Utilities; Storage.** All mechanical equipment, utility and storage areas or structures of any Owner other than Declarant must be approved by the Design Review Committee, and be either (i) concealed from the view of any other Lot, Common Area, Association Property or street (whether public or private), or (ii) constructed of such design, materials, configuration and in such location as to be compatible with the improvements on such Lot.

**7.1.7 Mineral Exploration, Mining or Drilling.** The surface of the Property shall not be used for the purpose of mining, quarrying, drilling, boring or exploring for or removing water, oil, gas or other hydrocarbons, geothermal heat, minerals, rocks, stones, gravel or earth; nor shall oil, water or other wells, tanks, tunnels, mineral or geothermal excavations or shafts be permitted upon or under the surface of any portion of the Property, except water wells installed by Declarant, and such excavations and removal of earth and other substances as may be done by Declarant and Developers during and incidental to the development of the Property.

**7.1.8 Nuisances and Offensive Activities.** No nuisance shall be permitted to

exist upon or emanate from any portion of a Lot, or Common Area within the Property so as to be offensive or detrimental to any other Lot, association Property or Common Area, or to its occupants. Without limiting the generality of any of the foregoing provisions and except as set forth below, horns, whistles, bells or other sound devices (other than security devices used exclusively for security purposes), live bands, noisy or smoky vehicles, large noisy power equipment or tools, off road motor vehicles or other items which may unreasonably disturb other Owners, or their guests, shall be located, used or placed on any portion of the Property without the prior written approval of Declarant and the Board of Directors. This paragraph is expressly subject to the exception for Golf Course, Club House and/or daily or special event activities associated with the Declarant or the Declarant's development plan for the property. Except for golf carts and other special use vehicles operating in areas designated for their use, no vehicles may be operated upon any portion of the Property not improved as a street without the prior written approval of the Board of Directors of the Master Association, which approval may be withheld for any reason whatsoever. Alarm devices used exclusively to protect the security of a Lot and its contents, shall be permitted, provided that such devices do not produce annoying sounds or conditions as a result of frequently occurring false alarms.

**7.1.9 Repair, Maintenance and Upkeep.** No improvement anywhere within the Property shall be permitted to fall into disrepair, and all improvements shall at all times be kept in good condition and repair. Such maintenance obligations shall include the obligation to paint, stucco, patch and otherwise protect and preserve wall surfaces from exposure to and deterioration by the elements. All color and improvement changes shall be submitted to the Design Review Committee for approval.

If any Owner shall permit any improvement, which is the responsibility of such Owner to maintain, to fall into disrepair so as to create a dangerous, unsafe, unsightly or unattractive condition, the Board of Directors of the Master Association, shall have the right but not the obligation to correct such condition, and to enter upon such Lot, Association Property or Common Area for the purpose of doing so, and such Owner shall promptly reimburse the Association correcting such condition for the cost thereof. Each Owner shall pay all amounts due for such work within ten (10) days after receipt of written demand therefor.

**7.1.10 Sewage and Water Systems.** No individual water supply system, or other water treatment system or sewage disposal system except any Golf Course related facilities shall be permitted within the Property.

**7.1.11 Temporary or Prefabricated Structures.** No tent, shack, trailer or any temporary building, improvement or structure, or prefabricated building or structure, or manufactured housing, shall be placed upon any portion of the Property.

**7.1.12 Subdivision.** Except as expressly authorized in a Supplemental

Declaration, no Lot in the Property may be further subdivided (including division into time-share estates or time-share uses) without the written approval of Declarant until its Membership in the Master Association terminates, and thereafter, the written approval of the Board of the Master Association; provided, however, that nothing in this Section prevents an Owner from, or requires the approval of Declarant or such Board for: (a) selling a Lot; or (b) transferring or selling any Lot to more than one (1) person to be held by them as tenants in common, joint tenants, or other form of occupancy permitted by law, not inconsistent with the Restrictions related to the Property.

**7.1.13 Tennis, Basketball or other Outdoor Recreation Facilities or Courts; Outdoor Sports and Recreation Facilities and Equipment.** Except as expressly permitted in writing by Declarant until its Membership in the Master Association terminates, and thereafter, by the Master Association, no trampolines, outdoor pools, tennis courts, or play court of any type or variety shall be permitted on any Lot, except a basketball hoop permanently mounted on a freestanding pole with a transparent basketball backboard will be allowed on a Lot. All exterior children's play equipment (without limitation and by way of example), such as swing sets, slides, play structures, jungle gyms and similar facilities or equipment shall be primarily of wood construction.

**7.1.14 Trash Storage.** No rubbish or debris of any kind shall be placed or permitted to accumulate anywhere within the Property, except in sanitary containers located in appropriate areas screened from view, and no odor shall be permitted to arise therefrom so as to render the Property or any portion thereof unsanitary, unsightly, or offensive from any public or private street or from any other Lot in the vicinity thereof or to its occupants. Trash containers shall be exposed to view only when set out for a reasonable period (not to exceed twenty-four (24) hours) before and after scheduled trash collection hours. There shall be no burning of refuse.

**7.1.15 Fireworks; Firearms.** No fireworks shall be kept, stored or discharged anywhere within the Property except by Declarant and/or assigns. No skeet shooting, target shooting or any other discharge of firearms shall be permitted within the Property. No hunting shall be permitted within the Property.

**7.1.16 Golf Course Access Restriction.** The Owner of each Lot, whether or not abutting or adjacent to the Golf Course Area, by accepting a deed to his Lot acknowledges that the Golf Course does not permit access to any portion of the Golf Course directly from any other Lot, whether by humans or pets. Access is permitted only through the Golf Course Clubhouse and such other entry points as the Golf Course owner or operator may from time to time specifically designate. Accordingly, each Owner of a Lot, whether or not abutting or adjacent to the Golf Course Area, warrants, covenants and agrees not to access the Golf Course Area directly from any Lot and shall not permit any of his family, guests, invitees, pets or any other person or animal to do so. The Master Association shall have the duty to enforce this access restriction directly against any Owner who violates it by any and all means authorized

in this Declaration and or as provided for by law.

**7.1.17 Environment.** Every attempt shall be made to preserve and protect the environment indigenous to the area. Disturbance, destruction, or damage to any plant life, animal life, or their natural habitats is forbidden, except where absolutely necessary for the placement or construction of improvements on the land. Land disturbed by construction or other human activity shall be returned promptly and as nearly as possible to its natural condition and replanted with active plant life except where otherwise utilized for lawns or exterior living areas. Living trees naturally existing upon a lot shall not be cut, trimmed, or removed from the premises, except as approved in advance in writing by the Design Review Committee.

**7.1.18 Temporary Dwellings.** No partially complete dwelling, nor any trailer, mobile home, modular home, camper, or tent shall be used within the Property as a residence, a place of habitation, or for sleeping purposes.

**7.1.19 Water and Water Rights.** Except as shall be accomplished by the Declarant or Developer in accordance with the general plan of development, no water shall be diverted or taken from any creek, stream, or ditch running through or adjacent to any of the properties by any method, and no existing water flow channels shall be altered in any manner. Any and all water rights acquired by the Declarant or a Developer by reason of its purchase of the Property shall be used by the Declarant, Developer or the Golf Course. Individual deeds to Lots or portions of the Property shall not be construed as transferring therewith any water rights to individuals.

**7.1.20 Utilities.** All utility lines shall be underground; no overhead power or communication lines or wires shall be erected or permitted to remain in or on any Lot.

**7.1.21 Leasing of Lots.** No Owner shall be permitted to lease his Unit for any period less than six (6) months unless done pursuant to a Declarant and/or assigns approved Rental Agreement Program for Cabins, Townhomes and/or Condominiums. Any lease shall be in writing and shall be subject in all respects to the provisions of the Restrictions, and any failure of the tenant to comply with the foregoing shall be a default under the lease, regardless of whether the lease provides otherwise. In the event of such a default, the Owner immediately shall take all action to cure the default including, if necessary, eviction of the tenant. All Owners leasing their Lots shall provide a copy of this Declaration to the tenant, and promptly notify the Master Association in writing of the terms of the lease with a copy thereof, the names of all tenants and members of tenant's family occupying such Lot and of the address and telephone number where the tenant and such Owner can be reached, and immediately update all information in writing upon any change.

**7.1.22 Timeshare Prohibition.** No Lot or any portion thereof shall be leased, subleased, occupied, rented, let, sublet, or used for or in connection with any time

sharing agreement, plan, program or arrangement, including, without limitation, any so called "vacation license," "travel club," "extended vacation," or other membership or time interval ownership arrangement unless agreed in writing by Declarant at its sole discretion, pursuant to a Declarant and/or assigns approved Rental Agreement Program for Cabins, Townhomes and/or Condominiums. The term "time sharing" as used herein shall be deemed to include, but shall not be limited to, any agreement, plan, program, or arrangement by which the right and/or option to use, occupy, or possess the Lot, or any portion thereof, is permitted by or among various Persons, either corporate, partnership, individual, or otherwise, on a temporary, periodic, recurring or rotating basis. This section shall not be construed to limit the personal use of any Lot or any portion thereof by any Owner or his or her social or familial guests.

**7.1.23 Commonly Metered Utilities.** The Declarant may establish restrictions regarding the individual use of utilities on a common meter, if any, and may impose reasonable charges for the use thereof.

**7.1.24 Activities Adversely Affecting Insurance.** Nothing shall be done or permitted on any Lot or in any improvements constructed thereon, or in the Common Area, which adversely affects any insurance policy in favor of Declarant or any Association, or the amounts, premiums and/or rates thereof.

**7.1.25 Noise.** To assist in protecting the natural environment and to help maintain the peaceful setting of the Property, noise and activities that create noise, other than normal noise arising from and/or incidental to construction, improvement or maintenance of the Golf Course, a Lot, the Common Areas and any permitted improvements on each of the same, shall be restricted to preclude disturbance of the neighborhood. Except for permitted golf carts, the operation of non-street legal and/or unlicensed motor vehicles or ATV's, including, but not limited to, snowmobiles, is expressly prohibited on the Property.

## **7.2 Use Restrictions**

Subject to the exemptions of Declarant and Developers as set forth in this Declaration, all Property shall be held, used and enjoyed subject to the following additional limitations and restrictions.

**7.2.1 Residential Use.** All Lots shall be improved and used solely for single Family residential use within The Ranch Club, and shall be used and maintained in compliance with the Restrictions and the conditions of approval of the Property/Subdivision by the City of Missoula. No Lot shall be used for any purpose outside The Ranch Club subdivision, or to benefit any use, property or improvement outside The Ranch Club subdivision. Use of a Lot to access property outside The Ranch Club subdivision is expressly prohibited. Further, subject to the exception for Declarant and Developers, no Lot shall ever be used or caused to be used or allowed

or authorized to be used in any way, directly or indirectly, for any business, commercial, manufacturing, mercantile, storage, vending, or other such non-residential purposes; provided, however, Declarant and Developers may use, by way of example and without limitation, any portion of the area owned by them for development in furtherance of their Master Plan for the Property, model home sites and display, sales offices, operation of a timeshare or rental program for the Cabins, Townhomes and/or Condominiums and such other uses as deemed necessary and appropriate by Declarant. In accordance with Article IX hereof and the Master Plan and objectives for the Property. The provisions of this Section shall not preclude professional or administrative occupations without external evidence thereof, for so long as such occupations (i) are conducted in conformance with all applicable governmental ordinances, (ii) are merely incidental to the use of the Lot as a residence, and (iii) the patrons or clientele of such professional or administrative occupation do not regularly visit the Lot or regularly park automobiles or other vehicles within the Property.

### **7.2.2 Improvements.**

a. **Residences and Other Structures.** Subject to the exception for Declarant, no Lot shall be used except for single Family residential purposes. No building shall be erected, altered, placed, or permitted to remain on any Lot other than one (1) attached or detached single Family dwelling and an attached or detached private garage for no less than two (2) cars (with doors no higher than nine (9) feet), and accessory buildings. No structures such as the residential dwelling, accessory buildings, fences, kennels, garages, or any other formal structure may be located upon any Lot unless the plans and specifications for such structures have been reviewed and approved in writing by the Design Review Committee. All structures shall be constructed only of approved new materials, approved reclaimed or approved recycled materials. However, suitable used materials such as used brick or beams may be utilized provided that advance approval in writing has been obtained from the Design Review Committee as herein provided. No old structures, whether intended for use in whole or in part as the main dwelling house or as a garage or other structure shall be moved upon any Lot. No mobile homes, either double or single wide, or other pre-manufactured or modular homes constructed primarily away from the Lot on which they would be situated shall be permitted.

All single family residences shall be at least one thousand six hundred square feet (1,600) and all cabins, townhomes and/or condominium residences shall be at least one thousand two hundred square feet (1,200) unless a request for a variance is approved by the Design Review Committee. The height of the structures on all Lots shall conform to City of Missoula Zoning.

No Lot shall be improved except with such improvements as are necessary or customarily incidental to the Property. No projections of any type shall be placed or permitted to remain above the roof of any building within the area, except

chimneys, railings, vent stacks, pediments and similar architectural features approved by the Design Review Committee in writing. No patio cover, wiring, air conditioning fixture, water softeners or other devices shall be installed on the exterior of an improvement or be allowed to protrude through the walls or roof of the improvement, unless the prior written approval of the Design Review Committee is obtained.

Nothing shall be done in or on any Lot, or in or on the Common Area, which will impair the structural integrity of any building, structure, or other improvement, or the stability of any ground or any subjacent support.

b. **Fences.** No fence, wall, hedge or other dividing device shall be erected, painted, altered or maintained on any Lot or Common Area except as permitted by the Design Guidelines. Any such proposed fence or wall shall be submitted for review and written approval by the Design Review Committee.

**7.2.3 Landscaping.** Within ninety (90) days after completion of an improvement on a Lot, and weather permitting due to winter season, the Owner shall install and shall thereafter maintain (except for any landscaping to be maintained by any Association, if applicable) plants, shrubs, trees, and any other appropriate landscaping improvements in compliance with The Ranch Club Design Guidelines, as amended. Each Owner shall properly maintain and promptly replace when necessary any trees, plants, grass, vegetation or other landscaping improvements located on such Owner's Lot which are not the maintenance responsibility of the applicable Association.

**7.2.4 Parking; Vehicular Restrictions.** None of the following (collectively "Prohibited Vehicles") shall be parked stored or kept on any street (public or private) within any area: any commercial type vehicle (including, but not limited to, any dump truck, cement mixer, truck, oil or gas truck or delivery truck); any recreational vehicle (including, but not limited to, any camper unit, house/car or motor home); any bus, trailer, trailer coach, camp trailer, boat, aircraft or mobile home; any vehicle not in operating condition; any off-road vehicle; any trash dumpster; or any vehicle or equipment, mobile or otherwise, deemed to be inappropriate or a nuisance by the Board. No Prohibited Vehicle shall be parked, stored or kept on any Lot or Common Area except wholly within an enclosed garage, and then only if the garage door is capable of being fully closed. Prohibited Vehicles shall not be allowed in any driveway or other exposed parking areas, or any street (public or private) within the area, except for the purposes of loading, unloading, making deliveries, or emergency repairs and except for parking areas which may be specifically designated by Declarant, and the Board, for parking and storage of specific types of Prohibited Vehicles. Vehicles owned, operated or within the control of an Owner, or of a resident of such Owner's Lot, shall be parked in the garage or other assigned parking space to the extent of the maximum designed capacity of such garage or parking space.

Garages or other parking areas shall be used only for parking authorized vehicles, and shall not be used for storage, living, recreational, business or other purposes. Garage doors shall not exceed nine (9) feet in height. There shall be no parking in the driveways if the Owner's garage is not being utilized to the maximum designed capacity for the parking of authorized vehicles, or if doing so obstructs free traffic flow, constitutes a nuisance, violates the Rules and Regulations, or otherwise creates a safety hazard. Garage doors shall be kept closed at all times, except as reasonably required for ingress to and egress from the interiors of the garages. No repairs or restorations of any motor vehicle, boat, trailer, aircraft or other vehicle or equipment shall be conducted upon any street (public or private), any portion of any Association Property, Common Area, Lot or elsewhere within the area, except wholly within an enclosed garage; provided, however, that such activity within an enclosed garage may not be undertaken as a business, and provided further that such activity may be prohibited entirely if it is determined by the Board of any Subassociation or of the Master Association to be a nuisance. All toxic or hazardous waste related to any such activities shall be disposed of outside The Ranch Club lawfully, promptly and regularly by the Owner.

**7.2.5 Signs.** No sign, poster, billboard, balloon or flag advertising device or other display of any kind shall be displayed within any area except: (a) such signs (regardless of size or configuration) as may be used by Declarant or a Developer in connection with the development and operation of portions of the Property or the sale, lease or other disposition of Lots; (b) entry monuments and similar community identification signs maintained by an Association; and (c) subject to the Rules and Regulations governing the location, size, materials and other such criteria, one (1) nameplate or similar Owner name identification, and one (1) sign advising of the existence of security services protecting a Lot. No signs shall be permitted on any Lot advertising the Lot except temporary, reasonable and customary "for sale" sign.

**7.2.6 Animals.** No animals, birds, reptiles, poultry, fish or insects of any kind ("animals") shall be raised, bred or kept on any Lot, Common Area or Association Property within any area whether for pleasure, commercial use or consumption irrespective of any ordinance or governmental regulation to the contrary, except that a reasonable number of birds, fish, dogs, cats, or other customary household pets may be kept on a Lot ("Household Pets"). Permitted Household Pets shall not be kept, bred or maintained for any commercial purpose, consumption, in unreasonable quantities, for prohibited purposes or in violation of any applicable local ordinance or any other provision of the Restrictions, and such limitations as may be set forth in the Rules and Regulations. As used in this Declaration "unreasonable quantities" shall ordinarily mean more than two (2) Household Pets per Residence; provided, however, that the Board may determine that a reasonable number in any instance may be more or less. The Board of Directors, shall have the right to prohibit maintenance of any animal in or on any Lot which constitutes, in the opinion of such Board, a nuisance to other Owners. Animals shall be subject to expulsion from the Property upon receipt of a complaint

and a determination by the Board, or applicable individual or committee responsible therefor, that animal(s) are being kept or maintained in violation of these Restrictions, as amended. Animals belonging to Owners or invitees must be kept within an enclosure or on a leash or other restraint being held by a person capable of controlling the animal when outside the owner's private lot area. No animals shall have any access to the Golf Course Area. Animal waste shall be immediately picked up and properly disposed of. Failure to immediately pick up and properly dispose of animal waste shall result in a \$50.00 fine per occurrence.

**7.2.7 Structures, Design Approval.** There shall be no excavation, construction, painting, alteration or erection of any improvement which in any way alters the exterior appearance of any Lot, or any Association Property or Common Area, from any public or private street or from any other Lot, Association Property or Common Area in the area (excluding minor repairs or rebuilding pursuant to this Article), without the prior written approval of the Design Review Committee. There shall be no violation of any setback, sideyard or other requirements of the City, County or other local governmental authority, notwithstanding any written approval of the Design Review Committee.

**7.2.8 Open Space and Weed Control.** The Master Association shall develop a reasonable weed control plan for the Common Areas and Association Property. The plan shall incorporate approved practices as adopted and available through the County Weed Control Board. Barring a demonstrated reason to the contrary, weed control practices will be uniform and consistent throughout the Property. Upon adoption of a weed control program by the Master Association, Owners as well as the Association shall implement the plan on their respective open-space areas.

Each Owner shall keep all Lots owned by him, and all improvements therein or thereon, in good order and repair and free of debris including, but not limited to, the seeding, watering, and mowing of all lawns, the pruning of all trees and shrubbery, and the painting (or other appropriate external care) of all buildings and other improvements, all in a manner and with such frequency as is consistent with good property management.

**7.2.9 Utility Easement.** There is hereby created a blanket easement in, upon, across, over, through, and under the Property for ingress, egress, installation, replacement, repair, and maintenance of all utility and service lines and systems including but not limited to, water, sewer, gas, telephone, electricity, television, cable, or communication lines and systems. By virtue of this easement, it shall be expressly permissible for the Declarant or the providing utility or service company to install and maintain facilities and equipment on said property, to excavate for such purposes and to affix and maintain wires, circuits, and conduits on, in, and under the roofs and exterior walls of said residences, providing such company restores disturbed areas as nearly as possible to the condition in which they were found.

Further, there is hereby created a blanket easement allowing the Declarant to subject all property or portions thereof to at least a 4-to-1 (4:1) back slope and temporary construction easement along all rights-of-way for roads, walkways, and waterways.

**7.2.10 Declarant's Easement to Correct Drainage.** Declarant reserves a blanket easement and right in, upon, over, under and through each Lot to maintain and to correct drainage of surface water in order to maintain reasonable standards of health, safety, and appearance. Such right expressly includes the right to cut any trees, bushes, or shrubbery; make any gradings of the soil; or to take any other similar action reasonably necessary, following which the Declarant shall restore the affected property to its original condition as near as practicable. The Declarant shall give reasonable notice of intent to take such action to all affected Owners, unless in the opinion of the Developer an emergency exists which precludes such notice.

**7.2.11 No Storage of Owner's Personal Property on Common Area.** No machinery, equipment or other personal property shall be stored on any Common Area. Nothing in this provision shall prohibit Declarant and/or the Association from storing machinery, equipment or other personal property on any Common Area.

**7.2.12 Power and Hobby Equipment.** Except for within an enclosed garage and screened from view of other Lots, no power, hobby or similar equipment shall be allowed to be used within The Ranch Club Subdivision unless reasonably and directly related to construction, alteration or maintenance of permitted improvements.

**7.2.13 Option to Purchase and Construction Schedule.** The Ranch Club Realty, LLC and/or assigns has an option to repurchase each Lot (at its sole discretion) pursuant to the terms and conditions of the Option to Purchase Agreement, as amended, which shall be entered into upon the sale of each lot.

### **7.3 No View Rights**

This Declaration is not intended and shall not in any way confer or grant (or be construed to confer or grant) to any Lot or the Owner thereof any right to the existence and/or maintenance of any view, viewscape or scenic corridor or area. Each Owner, by acceptance of a deed to his or her Lot, warrants, covenants, acknowledges and agrees that no representations or warranties have been made concerning any view, present or future, that may be enjoyed from all or any portion of the Property or such Owner's Lot, and that the same may change and/or be affected or obstructed by construction or installation of improvements, structures, fences, walls and/or landscaping by Declarant or other owners of property within or outside the Property and/or the growth of trees, landscaping and/or vegetation within or outside the Property. This Declaration does not contain any provisions intended to protect the view

from any Lot or Unit or any other portion of the Property.

## **ARTICLE VIII DESIGN REVIEW COMMITTEE**

### **8.1 Design Guidelines**

The Design Review Committee has adopted or will adopt design and architectural guidelines and Restrictions, setting forth general standards for development of the Property and guidelines for developing Lots. The guidelines are intended to provide design professionals with standardized design vocabularies and materials intended to preserve the quality and overall appearance of the Property. If there is any conflict between the guidelines and the provisions of this Declaration, the provisions of this Declaration shall control, although such documents shall be read and construed together to be consistent with one another to the extent possible. The provisions of this Declaration and any guidelines shall also be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion thereof shall not affect the validity or enforceability of any other provision or portion thereof.

The regulations and guidelines may be amended or modified by the Declarant and Design Review Committee at any time.

### **8.2 Scope of Review**

**8.2.1 Members.** The Design Review Committee shall consist of at least three (3) members. Members of the Design Review Committee shall be appointed by Declarant until Declarant's Master Control Termination Date. Thereafter, Members shall be appointed by the Master Board. Members of the Design Review Committee may be removed at any time without cause by the party appointing such member as provided herein. Unless changed by Declarant or by resolution of the Master Board, as applicable, the address of the Design Review Committee for all purposes, including the submission of plans for approval, shall be at the principal office of the Master Association as designated pursuant to the Master Bylaws.

**8.2.2 Scope of Review.** The Design Review Committee shall review and approve or disapprove all plans submitted to it for any proposed improvement or any alteration or addition to, or demolition of, any improvement on the basis of the considerations set forth in this Declaration, the Design Guidelines, the Restrictions and similar considerations. The Design Review Committee shall not be responsible for reviewing, nor shall approval by the Design Review Committee of any plan or design be deemed approval of, any plan or design from the standpoint of structural safety or conformance with building codes or other governmental requirements, which is the sole

responsibility of Owner.

### **8.3 General Provisions**

**8.3.1 Review of Construction Activities.** Subject to Article IX of this Declaration and subsections (a) and (b) below, no construction, development, painting, alteration, grading, addition, excavation, modification, decoration, redecoration, reconstruction or demolition of an improvement in the Property, or any other similar activity (collectively "Construction Activities") shall be commenced or maintained until the plans and specifications therefor showing the Owner's contractor and the nature, design, kind, shape, height, width, color, materials, location and other aspects of the same have been submitted to the Design Review Committee pursuant to this Declaration and approved in writing by the Design Review Committee as follows:

a. **Declarant.** Declarant need not seek approval of the Design Review Committee with respect to any of its construction or development activities including, without limitation, any construction activity.

b. **Owners, Developers.** Each Owner and all Developers, must obtain Design Review Committee approval in the manner provided herein for any construction activity on a Lot, or on any Association Property or Common Area, which may not be changed without the Design Review Committee's approval in writing.

**8.3.2 Submission of Plans and Specifications.** Owners and Developers, other than Declarant, must submit proposals, plans and specifications to the Design Review Committee.

**8.3.3 Approval Criteria.** The Design Review Committee shall consider and act upon any and all plans and specifications submitted for its approval under this Declaration and perform such other duties as are specified in this Declaration. The Design Review Committee shall approve plans and specifications submitted for its approval only if it deems that (i) the contractor and all construction activity is in conformance with the Guidelines, (ii) the construction activity in the locations indicated will not be detrimental to the appearance of the surrounding area or the Property as a whole, (iii) the appearance of any structure affected thereby will be in harmony with the surrounding structures and/or the Declarant's Master Plan as amended, (iv) the construction activity and the product thereof will not detract from the beauty, wholesomeness and attractiveness of the Association Property and the Common Area or the enjoyment thereof by the Members, and (v) the upkeep and maintenance thereof will not become a burden on any Association. Approval by the Committee does not relieve the applicant of its ongoing obligation and duty to comply with all Restrictions for the Lot.

Before commencement of any alteration or improvements approved by the

Design Review Committee, the Owner shall comply with all applicable governmental laws and regulations, including but not limited to the zoning ordinances then in effect in the City of Missoula. Approval by the Design Review Committee does not replace the appropriate approvals that may be required by any governmental entity with appropriate jurisdiction.

The Design Review Committee may require any Developer, or any Owner's contractor, to provide satisfactory evidence of licensing, insurance and workers' compensation coverage, creditworthiness, quality control, and experience, and/or any other information the Committee deems necessary or appropriate, which must be satisfactory to the Committee in its sole discretion.

**8.3.4 Timing of Design Review Committee Decisions.** The Design Review Committee may require such detail in plans and specifications submitted for its review as it deems proper, including without limitation, floor plans, site plans, lighting plans, drainage plans, landscaping plans, exterior elevation drawings and description or samples of exterior materials and colors. Until receipt by the Design Review Committee of any required plans and specifications (and any Association or Association architectural committee approval if required as a prerequisite to plan consideration), the Design Review Committee may postpone review of any plan submitted for approval or determination of exemption. The decision of the Design Review Committee or a request for further information shall be transmitted in writing by the Design Review Committee to the Applicant at the address furnished by the Applicant, within sixty (60) days after the date of the receipt issued by the Design Review Committee for materials submitted to the Design Review Committee. The Design Review Committee may extend the review time by sending written notice to the Applicant.

**8.3.5 Meetings.** Design Review Committee shall meet from time to time as necessary to perform its duties hereunder. Except as set forth in this Article, the vote of a majority of the members of the Design Review Committee, or the written consent of a majority of the members of the Design Review Committee taken without a meeting, shall constitute an act of the Design Review Committee.

**8.3.6 No Waiver of Future Approvals.** The approval of the Design Review Committee of any proposals or plans and specifications or drawings for any construction activity done or proposed or in connection with any other matter requiring the approval and consent of the Design Review Committee, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings or matters subsequently or additionally submitted for approval or consent.

**8.3.7 Variances.** Subject to Article IX, the Design Review Committee may recommend variances from compliance with any of the Guidelines of this Declaration or any Supplemental Declaration, including, without limitation, restrictions upon height,

size, floor area or placement of structures, or similar restrictions, when circumstances such as topography, natural obstructions, hardship, aesthetic or environmental considerations may require in their sole discretion. Such variances must be approved by the Declarant and/or Boards of any Subassociation and the Master Association, as applicable.

If such a variance is granted, no violation of the covenants, conditions and restrictions contained in this Declaration or any Supplemental Declaration 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 Declaration or of any Supplemental Declaration for any purpose except as to the particular property and particular provision hereof covered by the variance, nor shall it affect in any way the Owner's obligation to comply with all governmental laws and regulations affecting his use of his Lot, including but not limited to zoning ordinances and Lot setback lines or requirements imposed by the City, County or other governmental authority.

#### **8.4 Design Review Committee**

**8.4.1 Appointment.** Declarant shall have the sole and exclusive right to appoint and remove all members of the Design Review Committee until the Master Control Termination Date.

Thereafter, the Board of Directors of the Master Association shall have the right to appoint and remove all members of the Design Review Committee.

**8.4.2 Voting Requirements.** Approvals of the Design Review Committee shall require the affirmative vote or written consent of at least a majority of the members of the Design Review Committee.

## **ARTICLE IX DECLARANT'S RIGHTS AND EXEMPTIONS**

### **9.1 Interest of Declarant**

It is acknowledged that Declarant and the prior subdivider of the Property or parts thereof, in cooperation with the City and County, has created a master plan for the development of the Property which includes modern master-planning objectives, as may be amended and revised from time to time, which have been formulated for the common good and enhancement of property values within the community. Each Owner of a Lot acknowledges, by acceptance of a deed or other conveyance therefor (whether or not it shall be so expressed in any such deed or other instrument), that

Declarant has a substantial interest to be protected with regard to assuring compliance with and enforcement of the Restrictions contained in this Declaration and any amendments thereto and any Supplemental Declarations recorded pursuant to this Declaration and/or current and subsequent development plans. Notwithstanding any other provisions of the Restrictions to the contrary, until Declarant's Master Control Termination Date, the following actions, before being undertaken by the Members or any Association, must first be approved in writing by Declarant in addition to any other approval rights of Declarant under other provisions of this Declaration:

- a. **Annexation.** The annexation to the Property of other real property;
- b. **Capital Improvement Assessments.** The levy of a capital improvement assessment for the construction of new facilities not originally included in the Association Property or Common Area;
- c. **Service/Maintenance Reductions.** Any significant reduction of Association Property or Common Area maintenance or other services;
- d. **Architectural Guidelines.** Any supplement or amendment to the design guidelines, including any pre-approval authorization or variance issued or approved;
- e. **Rules and Regulations.** Any supplement or amendment of the Rules and Regulations affecting use of the Property;
- f. **Association Property Construction.** Any construction of improvements on any Association Property or Common Area, or the alteration, modification, addition or removal of any improvement constructed or approved by Declarant;
- g. **Reservation of Declarant's Rights and Authority; Withholding**

**Consent.**

- (i) Until Declarant's Master Control Termination Date, Declarant reserves and shall have the right and the authority, and be permitted but not required, to exercise any and all rights of the Master Association and any subassociation.
- (ii) Until Declarant's Master Control Termination Date, all actual and/or claimed rights, approvals, notices, and/or any other actions that may be taken by the Master Association and any subassociation, or the board(s) of any of them, shall be and are reserved to Declarant, who shall be permitted, but

not required, to exercise any and all such actual and/or claimed rights, approvals, notices and/or other actions.

- (iii) Until Declarant's Master Control Termination Date, Declarant shall have the right, but not the duty or the obligation, to enforce any and/or all of the provisions of this Declaration, the Bylaws of the Master Association, the Rules and Regulations and/or the Restrictions, against any Common Area, Association Property, Lots and the responsible Owners and Associations. Such rights shall include, but not be limited to, any action for damages, as well as an action to enjoin any violation of the provisions of this Declaration, the Bylaws of the Master Association, the Rules and Regulations and/or the Restrictions.
- (iv) Upon Declarant's Master Control Termination Date, all rights and/or obligations, if any, of Declarant shall transfer and pass to the Master Association and/or the Board thereof, as applicable.
- (v) To the extent that any action permitted or required by this Declaration, the Rules and Regulations and/or the Restrictions requires Declarant's consent, Declarant may withhold and/or refuse such consent for any reason or for no reason in Declarant's sole discretion.

**h. No Infringement on Rights of Declarant and Developers.** For so long as Declarant or any Developer is entitled to exercise any right, or avail itself of any exemption, in this Declaration, no Association, nor any Board or Owner, shall take any action which is inconsistent with, or which would impair or abrogate, any such right or exemption.

## **9.2 Exemption of Declarant and Certain Developers**

**9.2.1 Development Rights.** Declarant is undertaking the work of developing The Ranch Club Subdivision and constructing improvements on The Ranch Club property. The completion of that work and the sale of Lots is essential to the establishment and welfare of The Ranch Club Subdivision as a planned residential community. In order that such work may be completed, nothing in the Restrictions shall limit, and no Owner (including Developers), entity or any Association, shall do anything to interfere with, the rights of Declarant or its contractors, subcontractors, agents, employees, authorized representatives, or anyone else acting at the request or direction of Declarant, or under Declarant's control, to do anything in furtherance of Declarant's development plan, which rights include, but are not limited to:

a. Subdividing, resubdividing, determining use classifications, selling or reselling any Phase of the Property;

b. Constructing, completing or altering any improvements as Declarant or any Developer with Declarant's approval deems advisable in the course of development of the Property so long as any of the Property is owned by Declarant or a Developer;

c. Maintaining sales and/or rental offices, management offices, model units, and advertising signs, pennants flags and/or other displays on the Property;

d. Using easements, including, but not limited to, easements set forth and/or created herein, for the purpose of constructing, completing, altering or maintaining any improvements or natural features, such as drainages, on the Property;

e. Advertising or marketing the Master Association and any Subassociation or any property owned by any of them, including, but not limited to, the Common Areas, in promotional materials;

f. Accessing and using any property owned by the Association or any subassociation, including, but not limited to, the Common Areas, for advertising, marketing or other promotional purposes; and/or

g. Developing and conducting promotional or service programs and/or activities in a reasonable manner as Declarant deems appropriate in its sole and exclusive determination.

Any provision of this Declaration, the Rules and Regulations and/or the Restrictions, or any other limitation on activities, may be temporarily waived by and/or not complied with by Declarant while Declarant is pursuing the development of the Property. Declarant's rights are freely-assignable and/or freely-transferrable by Declarant, in Declarant's sole and exclusive determination and without prior consent, to any individual or entity, including, but not limited to, any affiliate of Declarant. Declarant may also allow any such individual or entity to exercise Declarant's rights on Declarant's behalf.

**9.2.2 Easements.** This Declaration shall not limit the right of Declarant, or a Developer under permission of Declarant, at any time prior to acquisition of title to any Lot by a purchaser from Declarant or a Developer or to any Association Property or Common Area by an Association, to establish on such Lots, or such Association Property or Common Area, additional licenses, easements, reservations and rights-of-way to itself, to utility companies, or to others as Declarant may from time to time deem to be reasonably necessary in the sole discretion of Declarant for the proper development and disposal of, and the operation of the Property.

**9.2.3 No Amendment.** Notwithstanding any other provision of this Declaration, the prior written approval of Declarant will be required before any amendment to this Article IX shall be effective.

### **9.3 Reservation of Water Rights and Easements**

Declarant hereby reserves for itself and its successors and assigns any and all water and water rights on the Property or interests in water rights no matter how or if acquired by Declarant, and whether or not owned or used by Declarant.

Declarant also reserves to itself an exclusive right and easement over the Property, including Association Property and Common Area, to drill, install and operate water wells (the "Water Wells").

Declarant further reserves unto itself the following:

a. Nonexclusive easements of access, ingress and egress over the Property, including Association Property and Common Area, for purposes of installation, operation, maintenance, repair, inspection, removal, relocation and replacement of water distribution lines.

b. An exclusive right and easement over the Property, including Association Property and Common Area, to pump and extract groundwater through the Water Wells, and to store such groundwater and to transport and use such groundwater. Such easement and right includes, but is not limited to, the right to use groundwater on the Golf Course Area and any property Declarant now or hereafter owns or controls within or contiguous to the Property.

c. No Owner or Developer, nor any of their respective successors, assigns, grantees, heirs, executors, administrators and devisees, shall claim any right to drill, install or operate water wells, to pump or extract groundwater (whether natural or foreign), to use any groundwater that Declarant, or its grantee or transferee, utilizes or has the right to utilize for any purposes, or to exercise any other water rights, all of which are reserved to Declarant.

### **9.4 Right to Use Common Area for Special Events**

So long as Declarant owns any Lot or other real property within the Property or has voting rights in any Association, Declarant shall have the right to exclusively use all Common Areas, including any recreational and/or social facilities, for up to 45 (forty-five) days each year to sponsor and/or host special events. Any such use by Declarant shall be subject to the following conditions:

and a. Declarant shall pay all costs and expenses of such special events;

b. Declarant shall return the Common Areas, including any recreational and/or social facilities, used in conjunction with any such special events to the same condition as they were in prior to such use by Declarant, normal wear and tear excepted.

Declarant shall have the right to assign the rights contained in this section. Declarant's right to use the Common Areas as set forth in this section shall be enforceable by injunction, by any other remedy in law or equity, and by the terms and provisions of this Declaration.

#### **9.5 Perpetual Right to Use Office**

Notwithstanding anything stated in this Article to the contrary, Declarant shall have the perpetual right to use an office located in the Property. Declarant shall have the right to use such office for the purpose of managing the development and maintenance of the Property and/or for sales, resales, or rentals of Lots and/or the improvements thereon. The office shall be under the sole control and possession of Declarant, and Declarant shall have perpetual right to use the office rent free. However, Declarant shall pay its pro rata share of maintenance and utility costs for the building in which the office is located, unless the office is located in a building owned or controlled by Declarant or an affiliate thereof.

#### **9.6 Other Covenants Prohibited**

So long as Declarant owns any Lot within the Property or has voting rights in any Association, no person, Association or Subassociation shall record any declaration of covenants, conditions or Restrictions, or similar instrument affecting any portion of the Property, without Declarant's review and prior written consent. Any declaration of covenants, conditions or Restrictions, or similar instrument affecting any portion of the Property that is recorded or attempted to be recorded without Declarant's prior written consent shall be void and of no force and effect.

#### **9.7 Termination of Responsibility, if any, of Declarant**

In the event Declarant conveys all of its rights, title and interest in and to the Property to any successor or assign, then and in such event, Declarant shall be relieved of all duties and obligations, if any, hereunder, and such successor or assign shall be obligated to perform all such duties and obligations of the Declarant.

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## **ARTICLE X INSURANCE**

### **10.1 Duty to Obtain Insurance; Types**

The Boards of Directors of the Master Association and any Subassociation shall each cause to be obtained and maintained adequate blanket public liability insurance (including medical payments), with such limits as may be determined by such Boards, but not less than One Million Dollars (\$1,000,000.00), covering all claims for personal injury and property damage arising out of a single occurrence, insuring against liability for bodily injury, death and property damage arising from the, activities of such Association and its Members, with respect to the Association Property or Common Area and any other property under the jurisdiction of such Association.

The Boards of Directors of the Master Association and any Subassociation shall also each cause to be obtained and maintained directors and officers liability insurance with a minimum per occurrence limit of one million dollars (\$1,000,000) and a minimum aggregate occurrence of three million dollars (\$3,000,000).

Each Board of Directors shall purchase such other insurance as necessary.

### **10.2 Notice Requirements**

All of the policies of insurance maintained by any Association shall contain a provision that such policy or policies shall not expire or be canceled, terminated, or materially modified without at least thirty (30) days' prior written notice to the Board of such Association, Declarant and those Beneficiaries, guarantors or insurers of mortgages and Owners who have filed a written request with the carrier for such notice, and every other Person in interest who requires such notice of the insurer.

### **10.3 Insurance Premiums**

Insurance premiums for any insurance coverage obtained by any Association shall be an annual expense to be included in the annual assessments levied by any Association.

### **10.4 Each Owner's Insurance**

Each Owner shall be responsible for obtaining, maintaining and paying for insurance covering such Owner's Lot in an amount to fully cover the replacement

cost of the improvements thereon.

## **ARTICLE XI LIVING WITH WILDLIFE**

### **11.1 Responsibility of Living with Wildlife**

Lot Owners must accept the responsibility of living with wildlife and must be responsible from protecting their vegetation from damage, controlling their pets as set forth herein, and properly storing and/or disposing of garbage, pet food and other potential attractants.

Lot Owners must be aware of potential problems associated with the occasional presence of wildlife, such as, but not limited to, deer, bears, mountain lions, skunks, raccoons and waterfowl.

Contact the Montana Fish, Wildlife and Parks office in Missoula, Montana (3201 Spurgin Road, Missoula, MT 59804; (406) 542-5500) for brochures that can help Owners "live with wildlife."

### **11.2 Fruit Trees**

All fruit trees shall be properly harvested so as not to allow an accumulation of rotting organic matter, which is a prime wildlife attractant. Fruit that has fallen from trees shall be picked up immediately so as not to accumulate on the ground.

### **11.3 No Compost**

Compost piles are not permitted.

### **11.4 Vegetation**

There is the potential for vegetation damage by wildlife, particularly from deer rubbing antlers on trees and feeding on lawns, flowers, ornamental shrubs and trees in The Ranch Club Subdivision. Owners should be aware of, and are deemed to assume the risk of, this potential damage. Owners shall take the responsibility to plant non-palatable vegetation in order to avoid and/or minimize such damage.

### **11.5 No Artificial Feeding of Wildlife**

Artificial feeding of wildlife is prohibited, including, but not limited to, the use of salt blocks and/or mineral blocks for deer or other wildlife. Such artificial feeding unnecessarily accustoms wildlife to humans, and can create problems for nearby homeowners, as well as being dangerous for both humans and wildlife. Owners should be aware that deer could occasionally attract mountain lions to the Property.

## **11.6 Pet Food - Storage and Feeding**

All pet food shall be stored indoors. Pets shall be fed indoors or in an approved kennel.

## **ARTICLE XII COMPLIANCE, VIOLATIONS, INVESTIGATION AND ENFORCEMENT**

### **12.1 Priority and Defined Terms**

The defined (initially capitalized) terms contained in this Article shall be in addition to defined terms set forth in Article I hereof; provided, however, that the terms and provisions of this Article shall have priority over and supersede any inconsistent terms or provisions contained in any other Articles or portions of this Declaration.

### **12.2 Compliance; Violations**

Each Owner, tenant and/or occupant of a Lot shall comply with all terms and provisions of this Declaration, and, to the extent they are not in conflict with this Declaration, shall also comply with all other Restrictions, and the decisions and resolutions of the applicable Associations and/or the Boards thereof, as lawfully amended or promulgated from time to time.

Every act or omission whereby any provision hereof is violated in whole or in part is hereby declared to be a nuisance and every remedy allowed by law or equity against a nuisance, either public or private, shall be applicable against every such result and may be exercised as provided in this Article.

Any violation of any state, municipal or local law, ordinance or regulation pertaining to the ownership, occupation or use of any of the Property is hereby declared to be a violation of this Declaration and subject to all of the enforcement procedures set forth herein and in the Rules and Regulations.

### **12.3 No Duty to Monitor Compliance**

The Master Association and any Subassociation, and their successors-in-interest, and any Owner, including Declarant and Developers (so long as Declarant or a Developer owns Lots within the Property or has voting rights in any Association) shall have the option and the right, but not the obligation, to monitor compliance with the terms and provisions of this Declaration. Provided however, that nothing in this provision nor the failure to monitor compliance shall constitute or be construed as a waiver of the option and the right, but not the obligation, to monitor, report or to enforce compliance with or violations of the terms and provisions of this Declaration.

## **12.4 Reporting Violations**

The Master Association and any Subassociation, and their successors-in-interest, and any Owner, including Declarant and Developers (so long as Declarant or a Developer owns Lots within the Property or has voting rights in any Association) shall have the option and the right, but not the obligation, to report to the applicable Board(s) any violation, whether actual or alleged, of any of the terms or provisions of this Declaration. All such reports shall be submitted to the applicable Board(s) in writing, signed and dated by the individual making the report, and shall set forth the address of the Lot Owner(s) believed to be responsible for the violation, the number of the term or provision of this Declaration (as numbered herein) that is believed to have been violated, and the specific facts constituting the violation. Upon submitting the written report to the applicable Board(s) the individual making the report shall contemporaneously send a complete copy of the written report via U.S. Mail to the address of the Lot Owner(s) believed to be responsible for the reported violation.

## **12.5 Investigation Procedure**

After receiving a written report that complies with the requirements set forth in the immediately preceding paragraph, the applicable Board(s) shall have the option and the right, but not the obligation, to conduct an investigation of the violation set forth in the written report. The determination of whether to conduct such an investigation on behalf of the Association is within the applicable Board(s)' sole discretion. If any Board determines to conduct such an investigation on behalf of the applicable Association, that Board shall have the option and the right, but not the obligation, to:

- a. Send a copy of the report to each Member of that Association;
- b. Request the Members of that Association to submit to the applicable Board in writing their thoughts and/or opinions regarding the written report and/or the violation set forth therein, and what position and/or action, if any, the members believe that Association should take with regard to the violation.
- c. Take a position or to act with regard to the violation pursuant to the provisions of this Declaration. The determination of whether to take a position or to take no position at all, and/or what position to take, as well as whether to act or not to act pursuant to the provisions of this Declaration, and/or how to act, is within the applicable Board(s)' sole discretion. In making such a determination, the applicable Board(s) may consider, but is not obligated to consider, any thoughts and/or opinions they have received about the violation from Association members.
- d. Take any other action the applicable Board deems appropriate in

its sole discretion.

If any legal and/or equitable action is instituted while an investigation, inquiry or other action pursuant to this provision is pending and/or ongoing, the applicable Board(s) may terminate or suspend all such investigation, inquiry, or other action. Upon full and final resolution of the legal and/or equitable action, the applicable Board(s) shall have the option and the right, but not the obligation, to reinstate and/or to resume any investigation, inquiry or other action that was terminated or suspended.

#### **12.6 Interested Parties for Enforcement**

The Master Association and any Subassociation, and their successors-in-interest, and any Owner, including Declarant and Developers (so long as Declarant or a Developer owns Lots within the Property or has voting rights in any Association), shall have the option and the right, but not the obligation, to enforce, by a proceeding at law or in equity against each other and/or any Lot, any of the terms and provisions of this Declaration and any amendments thereto, as well as all covenants, conditions, Restrictions and easements on the Property, except that Owners shall not have any right of enforcement or foreclosure concerning liens for Assessments. Such enforcement options and rights shall include, but not be limited to, actions for damages, actions for declaratory judgment and actions to enjoin any violation of the terms and provisions of this Declaration and any amendments thereto, as well as any violation of the covenants, conditions, Restrictions and easements on The Ranch Club Subdivision property.

#### **12.7 Remedies Cumulative and Non-Exclusive**

All remedies provided by this Declaration and/or that are available at law and/or in equity are cumulative and non-exclusive, and may, to the maximum extent permitted by law, be pursued individually, collectively, simultaneously, and/or at different times.

#### **12.8 Failure to Enforce; Non-Waiver**

No actual or alleged delay or failure to exercise any right or option hereunder, and no partial or single exercise of any such right or option, shall constitute a waiver of that or any other right, unless such waiver is expressly set forth in writing and signed by the Party against whom waiver is sought to be enforced. This non-waiver provision may not be waived by any actual or alleged actions or inactions of the Party against whom waiver is sought to be enforced unless agreed to in a writing signed by that Party. Waiver of any term or provision of this Declaration or any amendments thereto, or any covenants, conditions, Restrictions or easements on the Property shall not be a waiver of any other term or provision of this Declaration or any amendments thereto, or any covenants, conditions, Restrictions or easements on the Property.

No actual or alleged course of conduct shall be utilized to establish a waiver or that a Party waived their right to rely on the non-waiver provisions of this

Agreement. No Party may rely upon any unwritten declarations or any actual or alleged course of conduct to claim, prove or establish that they were induced to believe that the other party intended and/or did in fact waive a term or provision of this Declaration or any amendments thereto, or any covenants, conditions, Restrictions, rules or easements on The Ranch Club Subdivision property.

Thus, the sole manner in which any rights and/or obligations under this Declaration or any amendments thereto, or any covenants, conditions, Restrictions, rules or easements on The Ranch Club Subdivision property, may be waived is by a writing, signed by the party against whom the waiver is sought to be enforced: (1) expressly setting forth the terms and conditions of the waiver, and (2) expressly waiving the benefit of this non-waiver provision. This non-waiver provision is intended to be and shall be construed to be as broad and all-encompassing as permitted by law.

### **12.9 Attorneys Fees and Costs**

Any judgment rendered in any action or proceeding hereunder, including any appeal, shall include a sum for attorneys' fees in such amount as the Court may deem reasonable, in favor of the prevailing party, as well as the amount of delinquent payments (if applicable), interest thereon, late charges (if any) and court costs. As used herein, the term "attorneys' fees" includes, but is not limited to, attorneys fees, intern fees, paralegal fees, legal assistant fees, expert fees, costs for deposition (regardless of whether introduced into evidence or used in a trial-like setting), telephone costs, postage costs, facsimile costs, copy costs, and all fees and costs incurred in calculating and/or collecting such fees and costs (in addition to all other fees and costs provided for by law), together with interest thereon at a rate of 12% per annum or the highest rate allowed by applicable law. In addition to the foregoing award of attorneys' fees, the prevailing party in any action shall be entitled to its attorneys' fees incurred in any post judgment proceeding to collect or enforce the judgment. This provision is separate and several and shall survive the merger of this provision into any judgment.

As used in this provision, the "prevailing party" shall be the member/party who, in any action arising from or related to this Declaration, seeks to enforce the terms, conditions and intent of the Declaration (rather than to nullify or avoid application of the Declaration or any provision or the intent hereof).

## **ARTICLE XIII MISCELLANEOUS**

### **13.1 Declarant's Intent**

The intent of this Declaration is to enhance and protect the value, desirability, and attractiveness of The Ranch Club Subdivision as a desirable, planned residential development by ensuring that the Lots therein are held, sold, and conveyed subject to the Restrictions, covenants, conditions, and easements provided for herein.

The intent of this Declaration is also to ensure the Master Association shall be directed and controlled solely by the Declarant until the Master Control Termination Date. This intent provision is a material part of this Declaration, without which this Master Declaration would not have been made.

### **13.2 Term**

The covenants, conditions and Restrictions of this Declaration shall run with and bind the Property and every portion thereof, and shall inure to the benefit of and be enforceable by the Master Association, Subassociation, Declarant, Developers or any other Owner, their respective legal representatives, heirs, successors and assigns, for a term of twenty (20) years from the date this Declaration is recorded, or such longer period as is lawful under the rule against perpetuities, after which time such covenants, conditions, reservation of easements, equitable servitudes and restrictions shall be automatically extended for successive periods of ten (10) years, unless a Declaration of Termination satisfying the requirements of an amendment to this Declaration as set forth in this Declaration has been recorded.

### **13.3 Amendments**

**13.3.1 By Declarant.** Prior to the first close of escrow for the sale of a Lot or any other portion of the Property, the provisions of this Declaration may be amended or terminated unilaterally by Declarant by reformation of a written instrument signed by Declarant setting forth such amendment or termination. In addition, Declarant shall have the right to unilaterally amend this Declaration as necessary for its development plan, to make certain amendments which may be necessary from time to time to correct exhibits, conform to existing law, or satisfy requirements of governmental agencies.

**13.3.2 By Members.** The provisions of this Declaration, other than those provisions which may not be amended without the written consent of Declarant, may be amended by reformation of a certificate, signed and acknowledged by two (2) officers of the Master Association, setting forth the amendment and certifying that such amendment has been approved by sixty-seven percent (67%) of the total voting power of the Master Association. Such an amendment shall be effective upon reformation. Notwithstanding the foregoing, until the Master Control Termination Date, any amendment must have the written approval of Declarant which approval may be withheld at Declarant's sole discretion. Where Declarant's approval is required, any Certificate of Amendment shall also be signed and acknowledged by Declarant.

### **13.4 Notices**

Unless otherwise specifically set forth herein, any notice permitted or required to be delivered as provided herein shall be in writing and may be delivered either personally, by email or by mail. 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 deposited in the United States mail, postage prepaid, addressed to any Person at the address given by such Person to the Master Association for the purpose of service of

such notice. Such address may be changed from time to time by notice in writing to the Master Association and Declarant.

### **13.5 Interpretation**

**13.5.1 Provisions Construed Together.** All of the provisions herein shall be read and liberally construed together to promote and effectuate Declarant's intent and the fundamental concepts of the Property as set forth in this Declaration.

**13.5.2 Invalidity of Any Term or Provision; Severability.** Although the provisions of this Declaration shall be read and liberally construed together, the provisions are and shall be independent and severable, such that the invalidity or partial invalidity of any provision or portion thereof shall not affect the validity or enforceability of any other provision or portion of this Declaration. If any term, provision, portion, interpretation or application of this Declaration is contended to be, or is held to be invalid, all terms, provisions, interpretations, applications and/or portions of this Declaration which are consistent with the law and/or a reasonable extension thereof, shall, notwithstanding, continue in full legal force and effect and control any action taken hereunder or claimed to be available hereunder. Any invalid provision shall be deemed not a part of this Declaration, stricken and of no force or effect.

**13.5.3 Number; Gender.** Singular and plural number references and masculine and feminine gender references shall include and/or mean the other as the context requires.

**13.5.4 Captions and Headings.** Captions and headings herein are for convenience only and shall not be used to expand or limit the terms or provisions hereof, nor shall they be used to affect, nor have any effect on, the interpretation or construction of the terms or provisions hereof.

**13.5.5 Construction of Provisions.** Declarant, the Master Association, all Subassociations and all Owners stipulate and agree that no construction of any provision of this Declaration shall arise by virtue of the participation of any party in the drafting hereof.

### **13.6 No Public Right of Dedication**

Nothing contained in this Declaration shall be deemed to be a gift or dedication of all or any part of the Property to the public, or for any public use.

### **13.7 Constructive Notice and Acceptance; Incorporation by Reference**

Every person who owns, occupies or acquires any right, title, estate or interest in or to any portion of the Property does and shall be conclusively deemed to have consented and agreed to every limitation, Restriction, easement, reservation, condition and covenant contained herein, whether or not any reference to this Declaration is contained in the instrument by which such person acquired an interest in the Property. This Declaration does and shall be deemed to incorporate by reference

all government requirements, conditions of approval, notices and similar items pertaining to The Ranch Club Subdivision and the prior approval of Phantom Hills Subdivision. Notice is hereby given that The Ranch Club Subdivision and/or the Property subject to this Declaration was originally part of the Preliminary Plat of the Phantom Hills subdivision and/or applicable phases thereof. *See generally* the plats and/or preliminary plats for the following subdivisions (book and page references are to the real property records of Missoula County, Montana): (a) Phantom Hills Phase 1 & 2, in Book 27, Page 66; (b) Phantom Hills Phase 3, Book 28, Page 8; (c) Phantom Hills Phase 3A, Book 31, Page 51; (d) Phantom Hills Phases 1 & 2 L13A, Book 31, Page 52; and (e) Phantom Hills Phases 4 and 5, Book 30, Page 52.

### **13.8 No Representations or Warranties**

No representations or warranties of any kind, express or implied, have been given or made by Declarant or its agents or employees in connection with the Property or any portion of the Property, or any improvement thereon, or the Golf Course Area, its physical conditions, zoning, compliance with applicable laws, fitness for intended use, or in connection with the subdivision, sale, operation, maintenance, cost of maintenance, taxes or regulation thereof. Declarant expressly disclaims all representations and warranties, express and implied, to the maximum extent allowed by applicable law, including, but not limited to, the warranty of merchantability, the warranty of habitability, and all representations and warranties regarding the nature or condition of the Property and the Lots; defects, if any, thereto, whether latent or obvious, the acreage of the Property and the Lots; and/or the value of the Property and the Lots.

### **13.9 Non-Liability and Indemnification**

**13.9.1 Scope.** Except as specifically provided in the Restrictions or provided by law, no right, power, or responsibility conferred on the Declarant, the Board of Directors of any Association or the Design Review Committee by this Declaration, or any Articles or any Bylaws, shall be construed as a duty, obligation or disability charged upon Declarant or any individual member of any such Board, Design Review Committee, or any other officer, employee or agent of any such Association or Design Review Committee (collectively; "Committee Personnel"). No such Committee Personnel shall be liable to any party (other than an Association or a party claiming in the name of an Association) for injuries or damage resulting from such Board Personnel's acts or omissions within what such Board Personnel reasonably believed to be the scope of his duties ("Official Acts"), except to the extent that such injuries or damage result from such Board Personnel's willful or malicious misconduct. To the maximum extent allowed by applicable law, no such Board Personnel shall be liable to an Association (or to any party claiming in the name of an Association) or its Members for injuries or damage resulting from such Board Personnel's acts and/or omissions, except that this Section shall not eliminate or limit the liability of Board Personnel for acts or omissions which involve intentional misconduct, fraud or a knowing violation of the law.

**13.9.2 Payment by Association.** To the maximum extent allowed by applicable law, the Association for which such Board Personnel is performing his Official Acts

shall indemnify (and, to the extent allowed by law, advance expenses in advance of final disposition of a proceeding) any person who has been made or has been threatened to be made, a party to an action, suit, and/or proceeding, whether civil, criminal, administrative, investigative, or otherwise (including, but not limited to, an action, suit or proceeding by or in the right of the Association), by reason of the fact that the person is or was a Director-Officer of the Association, or serves or served at the request of the Association as a Director-Officer. The right of indemnification provided in this section is not exclusive of any other rights to which any person, or any other individual, may be entitled to as a matter of law.

**13.9.3 Board Approval.** Any determination of a Board required under this Section must be approved by a majority vote of a quorum consisting of Directors of the applicable Association who are not parties to the action or threatened action giving rise to the determination. If such Board fails or refuses to make any such determination, such determination may be made by the vote of a majority of a quorum of the total voting power of the applicable Association voting at a meeting of Members of such Association called for such purpose, provided that the Board Personnel to be indemnified shall not be entitled to vote.

#### **13.10 Association Approval, Action or Consent**

Any reference in this Declaration to approval by an Association, and any provision requiring action by or the consent of an Association, shall be deemed to require such approval, action or consent of or by the Board of Directors of such Association, acting without a vote of the Members, unless this Declaration expressly provides for or requires such approval, action or consent to be submitted to a vote of the Members of such Association.

#### **13.11 Priorities and Inconsistencies**

If there are actual or claimed conflicts or inconsistencies between this Declaration and the Articles or Bylaws of any Association or any Restrictions, the terms and provisions of this Declaration shall prevail. Such documents and the provisions thereof shall be read and liberally construed together as set forth herein.

#### **13.12 Montana Law Governs; Venue**

This Declaration is made under the laws of the State of Montana, and shall in all respects be interpreted, enforced, and governed under the internal laws (and not the conflicts of laws rules) of the State of Montana. Furthermore, this Declaration is made with regard to real property located in Missoula County, Montana, such that in the event legal proceedings are commenced with regard to, arising out of or related to any term and/or provision of this Declaration, venue for such an action shall be the state or federal court of competent jurisdiction located in Missoula, Montana.

//

### **13.13 Admissibility of Declaration**

This Declaration is and shall be admissibly in any legal, equitable or administrative proceeding and shall be conclusive as to the matters set forth herein, and Declarant, the Master Association, all Subassociations and all Owners stipulate and agree that upon the recording of this Declaration, any and all courts, administrative agencies, lawful mediators and/or arbitrators shall be bound by and enforce this Agreement.

### **13.14 Entire Agreement**

This Declaration sets forth the entire agreement and understanding between and/or among the Declarant, the Master Association, the Subassociations and the Lot Owners as to the matters set forth herein, and fully supersedes any and all prior or contemporaneous oral and/or written negotiations, agreements, representations, or understandings between and/or among them as to such matter(s). This Declaration shall not be amended except as set forth herein.

**THE RANCH CLUB REALTY, LLC**  
With Full Limited Liability Company Authority:

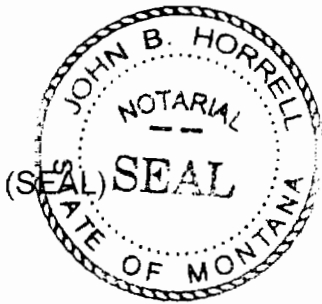
By: Caitlin Powers Oct 2 2007  
Signature Date

Print Name: Caitlin Powers  
Its: Member  
Position

State of Montana )  
 ) :ss  
County of Missoula )

On this 2<sup>nd</sup> day of October, 2007 before me, a Notary Public for the State of Montana, personally appeared before me Caitlin Powers, known to me to be the person whose name is subscribed to the within instrument, who signed, swore to and acknowledged before me that he/she executed the same, individually and on behalf of The Ranch Club Realty, LLC, a Montana Limited Liability Company, as the Member thereof.  
(Position)

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



[Signature]  
Name of Notary John B. Horrell  
Notary Public for the State of Montana  
Residing at Missoula, Montana  
My commission expires: September 9, 2009

**Certificate of Amendment**

We, the owners of all property subject to this Declaration consent to the amendment set forth here and above and certify that the amendment has been approved by 67% of the total voting power of the Master Association.

**THE RANCH CLUB REALTY, LLC**  
With Full Limited Liability Company Authority:

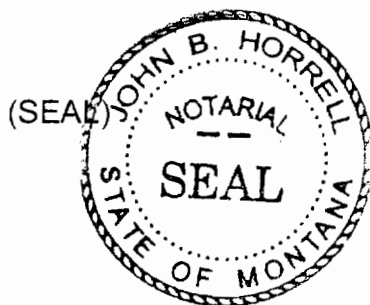
By: Colleen Powers Oct 2 2007  
Signature Date

Print Name: Colleen Powers  
Its: Member  
Position

State of Montana )  
 ) :ss  
County of Missoula )

On this 2<sup>ND</sup> day of OCTOBER, 2007 before me, a Notary Public for the State of Montana, personally appeared before me Colleen Powers, known to me to be the person whose name is subscribed to the within instrument, who signed, swore to and acknowledged before me that he/she executed the same, individually and on behalf of The Ranch Club Realty, LLC, a Montana Limited Liability Company, as the MEMBER thereof.  
(Position)

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



John B. Horrell  
Name of Notary JOHN B. HORRELL  
Notary Public for the State of Montana  
Residing at MISSOULA, MONTANA  
My commission expires: SEPTEMBER 9, 2009

Consent of Terry W. Payne for Lots 76, 77, and 78, Phantom Hills Phases 4 and 5:

Terry W. Payne      10/2/07  
Terry W. Payne      Date

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

(SEAL)

Elaine Gray  
Name of Notary Elaine Gray  
Notary Public for the State of Montana  
Residing at Lolo  
My commission expires: 1-29-2009

Consent of Declarant:

THE RANCH CLUB REALTY, LLC  
With Full Limited Liability Company Authority:

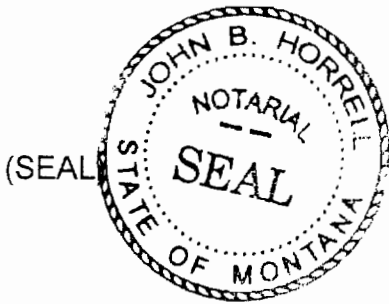
By: Colleen Powers Oct 2 2007  
Signature Date

Print Name: Colleen Powers  
Its: Member  
Position

State of Montana )  
 ) :ss  
County of Missoula )

On this 2<sup>ND</sup> day of OCTOBER, 2007 before me, a Notary Public for the State of Montana, personally appeared before me Colleen Powers, known to me to be the person whose name is subscribed to the within instrument, who signed, swore to and acknowledged before me that he/she executed the same, individually and on behalf of The Ranch Club Realty, LLC, a Montana Limited Liability Company, as the MEMBER thereof.  
(Position)

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



John B. Horrell  
Name of Notary John B. Horrell  
Notary Public for the State of Montana  
Residing at Missoula, Montana  
My commission expires: SEPTEMBER 9, 2009

**Master Declaration of Covenants, Conditions and Restrictions and  
Reservation of Easements**

**Exhibit 1**

**MINUTES OF THE SPECIAL MEETING OF THE  
PHANTOM HILLS HOMEOWNERS' ASSOCIATION**

A special meeting of the of the Phantom Hills Homeowners' Association, Inc. (the "Association") was held on the 10<sup>th</sup> day of July, 2007 at 7:00 p.m.

Paul W. Keiper, a Director of the Association, served as Chairman of the meeting. Joseph M. Racicot was present and served as Secretary of the meeting.

A defect in the notice for the meeting was acknowledged and waived.

**I. Motion to withdraw live Phases 4-5 and future Phases 6-11**

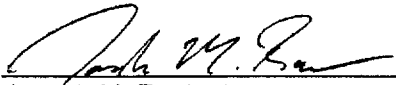
A motion to withdraw all of Phases 4-5 and future Phases 6-11 (including all real property owned by The Ranch Club Realty, LLC) from the Phantom Hills Homeowners Association was duly made and seconded. The motion passed and live Phases 4-5 and future Phases 6-11 were withdrawn from the Phantom Hills Master Association.

**II. Motion for Nomination of New Directors**

A motion to nominate new directors was duly made and seconded. Nominations for new directors for the future election were taken from the floor. The following persons were nominated as candidates for directors of the Phantom Hills Homeowners' Association:

Tom Butorac  
John Crowley  
June Gillet  
Jane Hensley  
Dale Kalberg  
Kim Williams

There being no further business, on motion duly made and seconded, the meeting was adjourned at 8:15 p.m.

  
\_\_\_\_\_  
Joseph M. Racicot  
Secretary of the Meeting

