

✓ **AMENDMENT AND RESTATEMENT OF  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF  
HAYDEN LAKE COUNTRY CLUB ESTATES HOMEOWNERS, INC.**

The undersigned being members constituting over fifty percent (50%) of the membership of Hayden Lake Country Club Estates Homeowners, Inc. by virtue of their ownership of Lots depicted on the plat of Hayden Lake Country Club Estates P.U.D. as filed in Book I of Plats, Page 374, 374A, 374B, and 374C, records of Kootenai County, and governed by the certain Declaration of Covenants, Conditions and Restrictions, filed August 27, 2002, as Instrument Number 1749146, records of Kootenai County, Idaho (the "Underlying CCRs"), hereby adopt the Amended and Restated Covenants, Conditions and Restrictions for Hayden Lake Country Club Estates Homeowners, Inc. ("Amended CCRs) as reflected in the instrument attached hereto, said Amended CCRs having been amended in accordance with Section 17.2 of the Underlying CCRs. These Amended CCRs shall replace and supersede in its entirety the Underlying CCRs from and after September 29, 2009.

Dated and effective September 29, 2009.

DANIEL J. ENGLISH 38P I 2248557000  
KOOTENAI CO. RECORDER Page 1 of 38  
AAA Date 01/08/2010 Time 14:24:16  
REC-REQ OF HAYDEN LAKE COUNTRY CLUB  
RECORDING FEE: 114.00  
2248557000 SC 3

[Signature of lot owners constituting the majority approval required for this Amendment are set forth on individual pages attached hereto and incorporated herein by this reference.]

**AMENDED AND RESTATED  
COVENANTS, CONDITIONS AND  
RESTRICTIONS  
FOR  
HAYDEN LAKE COUNTRY CLUB ESTATES**

*revised 9/29/2009.*

## TABLE OF CONTENTS

<u>ARTICLE</u>	<u>TITLE</u>	<u>PAGE</u>
Article 1	DEFINITIONS	5
1.1	Words Defined	5-8
Article 2	ASSOCIATION OF LOT OWNERS	8
2.1	Form of Association	8
2.2	Articles and Bylaws	8
2.3	Qualification for Membership Voting Right	8
Article 3	COMMON AREAS	8
3.1	Association's Responsibility for Common Areas	8
3.2	Use of Common Areas	8
3.3	No Dedication to the Public	9
Article 4	PRIVATE ROADS AND STREETS	9
4.1	Roads and Streets	9
4.2	Conveyance by Declarant	9
Article 5	PROPERTY USE MAINTENANCE AND RESTRICTIONS	9
5.1	General Restrictions	9
5.2	Motorized Vehicles	9
5.3	Parking	9
5.4	Automobile Repair, Abandoned, Inoperable or Oversized Vehicles	9-10
5.5	Excavation	10
5.6	Electrical, Television, and Telephone Service	10
5.7	Water and Wells	10
5.8	Animals and Pets	10-11
5.9	No Outside Clothesline	11
5.10	Antenna	11
5.11	Window Coverings	11
5.12	Noise	11
5.13	Drainage	11
5.14	Blasting	11
5.15	Temporary Structures and Outbuildings	11-12
5.16	Trash	12

<u>ARTICLE</u>	<u>TITLE</u>	<u>PAGE</u>
5.17	Outside Burning	12
5.18	Snow Clearance	12
5.19	Obstructions	12
5.20	Clear Vision Area and Cul-de-sacs	12
5.21	Nuisance	12
Article 6	OWNERS' OBLIGATIONS FOR MAINTENANCE	12
6.1	Owner's Responsibility for Lot	12-13
6.2	Owner's Negligence	13
Article 7	ASSESSMENTS	13
7.1	Creation of Lien and Personal Obligation for Assessments	13
7.2	General Remedies of Association for Nonpayment of Assessment	13-14
7.3	Assessment Lien	14
7.4	Waiver of Homestead Exemption; Subordination of the Lien	14-15
7.5	Reallocation of Assessments Secured by Extinguished Liens	15
7.6	Common Area Exempt Property	15
7.7	Failure to Assess	15
7.8	Avista Utility Deposit	15
Article 8	PROPERTY RIGHTS OF OWNERS	15
8.1	Emergency Access Easement	15
8.2	Easements of Encroachment	15
8.3	Easements for Utilities, Etc.	16
8.4	Easements for Club Property	16-17
8.5	Right of Entry	17
Article 9	ADDITIONAL RESERVED RIGHTS	17
9.1	Reservation for Expansion and Construction	17
9.2	Reservation of Easements, Exceptions, and Exclusions for Utilities, Infrastructure, and Access	18
9.3	Maintenance Easement	18
9.4	Drainage Easement	18
9.5	Easements Deemed Created	18

<u>ARTICLE</u>	<u>TITLE</u>	<u>PAGE</u>
Article 10	CLUB PROPERTY	18-19
10.1	Club Property	19
10.2	Acknowledgements	19-20
10.3	Assumption of Risk and Indemnification	20
Article 11	INSURANCE AND FIDELITY BONDS	20
11.1	Authority to Purchase	21
11.2	General Insurance Provisions	21
11.3	Physical Damage Insurance on Common Areas	21
11.4	Liability Insurance	21
11.5	Fidelity Insurance	21
11.6	Provisions Common to Physical Damage Insurance, Liability Insurance, and Fidelity Insurance	21-22
Article 12	ASSOCIATION AS ATTORNEY-IN-FACT	23
Article 13	FIRST MORTGAGEE PROTECTIONS	23
13.1	Payment of Taxes and Insurance	23
13.2	Cure of Delinquent Assessments	23
13.3	Title Taken by First Mortgagee	23
Article 14	ENFORCEMENT OF COVENANTS	23
14.1	Violations Deemed a Nuisance	23
14.2	Compliance	23
14.3	Failure to Comply	24
14.4	Who May Enforce	24
14.5	Nonexclusive Remedies	24
14.6	No Waiver	24
14.7	No Liability	24
14.8	Recovery of Costs	24
Article 15	RESOLUTION OF DISPUTES	24
15.1	Hearing	24
15.2	Arbitration	24-25

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
Article 16	DURATION OF THESE COVENANTS AND AMENDMENT	25
16.1	Term	25
16.2	Association Modification or Termination	25
16.3	Effect of Amendments	25
Article 17	MISCELLANEOUS PROVISIONS	25
17.1	Severability	25
17.2	Construction	25
17.3	Paragraph Headings	26
17.4	No Waiver	26
17.5	Limitation of Liability	26
17.6	Conflicts Between Documents	26

**DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS**

The undersigned, Hayden Lake Country Club Estates Homeowners, Inc., an Idaho nonprofit corporation (hereinafter referred to as "Association"), is the incorporated body, charged with administering the real property located in the City of Hayden Lake, Kootenai County, Idaho more depicted on the Hayden Lake Country Club Estates Plat attached hereto as Exhibit "A", (hereinafter referred to as the "Hayden Lake Country Club Estates" or "Property"). The Association hereby adopts the following Amended and Restated Covenants, Conditions and Restrictions for the Hayden Lake Country Club Estates Planned Unit Development and any additions thereto (hereinafter referred to as the "Project" located at the Property), and declares that the following shall apply to the subject Property and to any interest in that Property. These Amended and Restated Covenants, Conditions and Restrictions ("Declaration") expressly supercedes and amends the Declaration of Covenants, Conditions and Restrictions recorded with the Kootenai County Recorder's Office as Instrument No. 1749146 on August 15, 2002, and shall run with the land, and with each estate therein, and shall be binding upon all persons having or acquiring any right, title, or interest in said real property or any Lot, parcel, or portion thereof; and shall inure to the benefit of and be binding upon the Association, the Association's successors-in-interest, purchasers, assigns, heirs, and any party having acquired any right, title, or interest in or to any part of the subject Property until the Declaration is terminated.

This Declaration is intended to regulate the use of the Project for the mutual benefit of future Owners and occupants. The Association has attempted to draft this Declaration consistent with the ordinances and regulations of the City of Hayden Lake, Kootenai County, Idaho. In the event restrictive provisions of this Declaration are inconsistent with such ordinances, the more restrictive provision shall apply. THIS DOCUMENT DOES NOT AND CANNOT ALTER THE LAW OF THE GOVERNMENTAL AGENCIES HAVING JURISDICTION.

**ARTICLE I.  
DEFINITIONS**

1.1. **Words Defined.** For the purposes of this Declaration and any amendments hereto, the following definitions shall apply:

- 1.1.1. **"Articles"** shall mean the Articles of Incorporation of the Association defined below; a copy of which is attached hereto as Exhibit "B" and by this reference are incorporated herein.
- 1.1.2. **"Association"** shall mean the Hayden Lake Country Club Homeowners, Inc., an Idaho nonprofit corporation whose members are the Lot Owners as described in this Declaration.
- 1.1.3. **"Board"** shall mean the Board of Directors of the Association.
- 1.1.4. **"Builder"** shall mean a person who purchases a Lot for the purpose of building a Dwelling Unit for resale or rent and not for such Person's primary residence.

- 1.1.5. **"Building"** shall mean a building or other structure constructed on a Lot.
- 1.1.6. **"Bylaws"** shall mean the Bylaws of the Association, a copy of which is attached hereto as Exhibit "C" and by this reference are incorporated herein.
- 1.1.7. **"Club"** shall mean the Hayden Lake Country Club, Inc., an Idaho nonprofit corporation.
- 1.1.8. **"Club Property"** shall mean real estate owned by the Hayden Lake Country Club, Inc.
- 1.1.9. **"Common Areas"** shall mean portions of the Property which, according to the Plat or ownership, is established for shared use of the Owners. Common Areas are maintained by and at the expense of the Association.
- 1.1.10. **"Declaration"** shall mean this Amended and Restated Declaration of Covenants, Conditions, and Restrictions as it may from time to time be amended.
- 1.1.11. **"Developer"** shall mean LRC DEVELOPMENT, LLC and its representatives, successors, and assigns.
- 1.1.12. **" Dwelling Unit"** shall mean any building or portion thereof within the Project which is designed and intended for use and occupancy as a single-family residence.
- 1.1.13. **"Development Documents"** shall mean the Declaration, Articles, Bylaws, and the Design Guidelines or Rules and Regulations as lawfully amended from time to time.
- 1.1.14. **"Design Guidelines"** shall mean the guidelines and rules published and amended and supplemented from time to time by the Design Review Committee.
- 1.1.15. **"Design Review Committee"** shall mean a committee formed by the Association's Board of Directors to maintain the quality and architectural harmony of Improvements in the Hayden Lake Country Club Estates Planned Unit Development.
- 1.1.16. **"First Mortgage"** shall mean a recorded mortgage on a Lot that has legal priority over all other mortgages thereon.
- 1.1.17. **"First Mortgagee"** shall mean the holder of a First Mortgage.



- 1.1.18. **"Improvement"** shall mean the buildings, roads, driveways, parking areas, fences, walls, rocks, hedges, plantings, planted trees and shrubs, and all other structures or landscaping improvements of every type and kind.
- 1.1.19. **"Lot"** shall mean a platted and subdivided parcel of real property located in the Project, excepting any Lot owned by the Association.
- 1.1.20. **"Limited Common Area"** shall mean those Common Areas and facilities, which may be designated in future plats or annexations to this Declaration for use by a certain owner or owners to the exclusion, limitation, or restriction of others.
- 1.1.21. **"Mortgage"** shall mean a recorded mortgage, deed of trust, or other security instrument by which a Lot in the Project is encumbered.
- 1.1.22. **"Mortgagee"** shall mean the beneficial Owner, or the designee of the beneficial Owner, of an encumbrance on a Lot in the Project created by a mortgage, deed of trust, or other security instrument.
- 1.1.23. **"Owner"** shall mean the legal Owner of a Lot in the Project.
- 1.1.24. **"Person"** shall mean an individual, corporation, partnership, association, trustee, or other legal entity.
- 1.1.25. **"Plat"** shall mean the plat of survey of the property and of all lots included within the property, which plat has been recorded with the county recorder of Kootenai County, and all amendments thereto, together with any plats of real property subsequently annexed pursuant to this Declaration.
- 1.1.26. **"Project"** shall mean the real estate and improvements covered by this Declaration.
- 1.1.26. **"Property"** shall mean the land and the buildings and all structures now or hereafter placed on the land described in Exhibit "A" attached hereto, along with any real estate annexed hereunder in accordance with the terms of this Declaration.
- 1.1.28. **"Rules and Regulations"** shall mean those operating procedures and use controls adopted by the Board consistent with this Declaration. Upon proper adoption and notice to owners (actual or constructive), the Rules and Regulations shall be as enforceable and binding as any other requirements of this Declaration.
- 1.1.29. **"Survey Map and Plans"** shall mean the survey map or Plat and the plans recorded with respect to the Property and any amendments, corrections, and addenda thereto subsequently recorded.

1.130. **"Visible from Neighboring Lots"** shall mean, with respect to any given object, that such object is or would be visible to a person six (6) feet tall, standing on any part of such neighboring property at an elevation no greater than the elevation of the base of the object being viewed.

1.1.31. **"Form of Words"** shall mean the singular form of words shall include the plural and the plural shall include the singular. Masculine, feminine, and neuter pronouns shall be used interchangeably. The above definitions shall apply to words in text whether capitalized or uncapitalized, unless the context of their use makes the definitions clearly not applicable. All other words shall be given their common and simple meaning consistent with context of their use.

## **ARTICLE 2. ASSOCIATION OF LOT OWNERS**

2.1. **Form of Association.** The Association shall be a nonprofit corporation formed under the laws of the State of Idaho.

2.2. **Articles and Bylaws.** The Articles and Bylaws of the Association shall bind all Owners and are by this reference an integral part of this Declaration. A copy of the Association's Articles of Incorporation is attached hereto as Exhibit "B" and a copy of its Bylaws is attached as Exhibit "C" and are each available through the Board and online at the Hayden Lake Country Club Estates Homeowners, Inc. website. The Articles and Bylaws may be amended in accordance with the terms of each and the laws of Idaho.

2.3. **Qualification for Membership Voting Right.** Each Owner of a Lot shall be a member of the Association. Ownership of a Lot shall be the sole qualification for membership in the Association. The voting rights of the memberships are specified in the Bylaws of the Association.

## **ARTICLE 3. COMMON AREAS**

3.1. **Association's Responsibility for Common Areas.** The Association, subject to the rights and obligations of the Owners set forth in this Declaration, will be responsible for the management and control of the Common Areas and all Improvements on the Common Areas (including furnishings and equipment related thereto), and will keep said Common Areas in good, clean and attractive condition and repair consistent with the standards of the Hayden Lake Country Club Estates community.

3.2. **Use of Common Areas.** The Common Areas are generally designated by this Declaration for the common use, benefit, and enjoyment of the Owners and their families, tenants, employees, guests, and invitees, and such other persons as may be permitted to use the Common Areas consistent with the terms of this Declaration and the Rules and Regulations.

3.3. **No Dedication to the Public.** Nothing in this Declaration shall be construed as a dedication to public use, or a grant to any public municipal or quasi-municipal authority or utility, or an assumption of responsibility for the maintenance of any Common Area by such authority or utility, absent an express written agreement to that effect.

#### **ARTICLE 4. PRIVATE ROADS AND STREETS**

4.1. **Roads and Streets.** The Association shall own and be responsible for maintaining all roads within the Property.

4.2. **Conveyance by Declarant.** The roads, rights-of-way, and sidewalks or pathways within the Property are considered to be Common Areas and are described as Hofmeister Court (TRACT "B"), and Country Club Drive with Griffiths Court (TRACT "C").

#### **ARTICLE 5. PROPERTY USE MAINTENANCE AND RESTRICTIONS**

5.1. **General Restriction.** The Property and each Lot located therein will be used only as permitted by the applicable ordinances of the City of Hayden Lake and in accordance with this Declaration and the Rules and Regulations made in accordance with this Declaration and the Articles, Bylaws, and resolutions of the Association.

5.2. **Motorized Vehicles.** No trucks, trail bikes, recreational vehicles, motor homes, motor coaches, snowmobiles, campers, trailers, boats, or boat trailers or similar vehicles, other than passenger automobiles or pickup or utility trucks with a capacity of one (1) ton or less, or any other motorized vehicles will be parked, stored, or in any manner kept or placed on any portion of the Property except in an enclosed garage. This restriction, however, will not be deemed to prohibit commercial and construction vehicles, in the ordinary course of business, from making deliveries or otherwise providing services to the Property or the Owners.

No snowmobiles or off-road vehicles will be allowed to operate anywhere in the Property, except for emergency purposes or in areas specifically designated for such purposes by the Board. Motorcycles may be used on roads in the Property only for transportation to and from a Dwelling Unit or Building and shall be operated in a quiet manner and in compliance with the rules of the road.

Motorcycles are only permitted to leave from or arrive at the Property. All other starting and running of motorcycles on any Lot shall be strictly prohibited.

No unlicensed driver shall operate any motorized vehicle on the Property. Only current licensed vehicles shall be on the Property.

5.3. **Parking.** No overnight parking in-streets or cul-de-sacs is allowed in the Project.

5.4. **Automobile Repair, Abandoned, Inoperable, or Oversized Vehicles.** No work on automobiles or other vehicle repair will be performed in any visible or exposed portion of

Hayden Lake Country Club Estates community except in emergencies. All repair work shall be done in Owner's garage or off the Property. No abandoned or inoperable vehicles of any kind will be stored or parked on any portion of the Property, except as provided below. "Abandoned or inoperable vehicle" is defined as any vehicle that has not been driven under its own propulsion for a period of three (3) weeks or longer; provided, however, this will not include vehicles parked by Owners while on vacation or residing away from the Hayden Lake Country Club Estates community. A written note describing the "abandoned or inoperable vehicle" and requesting its removal may be personally served by the Association upon the Owner or posted on the unused vehicle. Failure to remove such a vehicle may result in a Default Assessment pursuant to and as defined in Section 9.9 of the Bylaws. All unsightly or oversized vehicles, snow removal equipment, garden maintenance equipment, and all other unsightly equipment and machinery may be required by the Board to be stored at a designated location or outside the Project. "Oversized" vehicles, for purposes of this Section, are defined as any vehicles that are too high to clear the entrance to the Owner's garage.

5.5. **Excavation.** No excavation will be made except in connection with approved Improvements as provided for in this Declaration. For purposes of this Section, "excavation" means any disturbance of the surface of the land that results in the removal of earth, rock, or other substance to a depth in excess of eighteen (18) inches below the natural surface of the land.

5.6. **Electrical, Television, and Telephone Service.** All electrical, television, and telephone service installations will be placed underground.

5.7. **Water and Wells.** Each structure designated for occupancy will connect to the Avondale Irrigation District's water system. No wells from which water, oil, or gas is produced shall be permitted on any residential Lots.

5.8. **Animals and Pets.** All pets (animals, birds, reptiles, or living creatures of any kind) kept within any Dwelling Unit or Lot in the Common Areas are subject to the following restrictions.

5.8.1. **Allowed Pets.** Raising or housing of any animal on a commercial basis, including, without limitation, kenneling and breeding, is prohibited. No animals, livestock, or poultry of any kind will be kept on any portion of the Property, other than domestic household pets.

5.8.2. **Limitation of Number of Pets.** No more than three (3) domestic household pets are allowed per Dwelling Unit.

5.8.3. **Containment.** Domestic household pets shall be kept within the Owner's Lot and shall not be permitted to run at large at any time. Dogs that are leashed may not be left unattended. Underground electric fencing may be used around the perimeter of the Lot. Pets shall be managed and controlled in such a way as to not become a nuisance due to excessive noise, odors, or any other characteristics that may impair the enjoyment of the Property by other Owners.

5.8.4. **Leashes.** Pedestrians within the Property who are accompanied by dogs must have the dogs under the pedestrian's direct control by use of a leash not to exceed ten (10) feet in length.

5.8.5. **Right for Removal.** The Association may at any time require the removal of any pet, which it finds to be disturbing other Owners unreasonably, and may exercise this authority as to specific pets while other pets are permitted to remain.

5.8.6. **Damage by Pets.** Owners and their guests are responsible for any damage (caused by their pets) to the Common Areas, to other real or personal property, or to individuals within the Property.

5.8.7. **Wildlife Attractions and Repellants.** The use of wildlife attractions such as salt licks is prohibited. The use of devices intended to repel wildlife, such as deer whistles, etc., is also prohibited. In the event any wildlife constitutes a nuisance or potential harm, appropriate animal control services may be utilized. This provision shall not apply to bird feeders.

5.9. **No Outside Clothesline.** No laundry or wash will be dried or hung outside any Dwelling Unit.

5.10. **Antenna.** Standard TV antennas and satellite dishes which are eighteen (18) inches in diameter or less shall be permitted on the Property; however, such over-the-air reception devices shall comply with all Design Guidelines, screening requirements, and other applicable restrictions pertaining to the location and manner of installation.

5.11. **Window Coverings.** Windows shall be covered by drapes, blinds, shades, or shutters or as approved by Design Committee and shall not be covered with foil, cardboard or other nontraditional window covering material.

5.12. **Noise.** No use or discharge of any radio, loudspeaker, horn, whistle, bell, or other sound-producing device, so as to be audible to occupants of other Dwelling Units, shall be permitted on any portion of the Property, except that security alarm devices used exclusively for security purposes will be permitted.

5.13. **Drainage.** No Owner will do or permit any work, place any landscaping, or install any other Improvements or suffer the existence of any condition whatsoever which will alter or interfere with the drainage pattern of the Property, except to the extent such alteration and drainage pattern is approved in writing by the Design Committee or the Board.

5.14. **Blasting.** If any blasting is to occur, the Board and Design Committee will be informed far enough in advance to allow them to make such investigation as they deem necessary to confirm that appropriate protective measures have been taken prior to the blasting. Notwithstanding the foregoing, no approval of any blasting by the Board or the Design Committee will in any way release the person conducting the blasting from any liability in connection with the blasting, nor will such approval in any way be deemed to make the Board, the Association, or the Design Committee liable for any damage which may occur from blasting, and the person doing the

blasting will defend, hold harmless, and indemnify the Board, the Association, and the Design Committee from any such expense or liability.

5.15. **Temporary Structures and Outbuildings.** No temporary structures and outbuildings will be permitted except as may be determined to be necessary during construction and as specifically authorized by the Design Committee.

5.16. **Trash.** No trash, ashes, garbage, construction materials, or other refuse will be thrown or dumped on any land or area within the Property. There will be no burning or other disposal of refuse out of doors. Each Owner will provide suitable receptacles for the temporary storage and collection of refuse, and all such receptacles will be screened from the public view and protected from the wind, animals, and other disturbances.

5.17. **Outside Burning.** There will be no exterior fires, except barbeques, outside fireplaces, and the like which shall be contained within these facilities or receptacles and in areas designated and approved by the Design Committee. No Owner will permit any condition upon its portion of the Property that creates a fire hazard or is in violation of fire prevention codes or regulations.

5.18. **Snow Clearance.** Snow clearance and/or removal on any Lot is the responsibility of the respective Lot Owner. Owners shall not clear or remove snow from Owner's driveways or walkways onto Common Areas or roads within the Property.

5.19. **Obstructions.** There will be no obstruction of any walkways or paths or interference with the free use of those walkways and paths except as may be reasonably required in connection with repairs. The Owners, their families, tenants, guests, and invitees are granted nonexclusive easements to use the walkways and paths within the Property subject to such rules as the Board may adopt from time to time.

5.20. **Clear Vision Area and Cul-de-sacs.** Owners shall cooperate in creating and maintaining a triangular "clear vision" area to be established and maintained at all road intersections and curves, such that each of the two (2) roads has a distance of forty (40) feet measured from the point of intersection (or the midpoint of the curve) along the road centerlines of each road. Cul-de-sacs shall be kept unobstructed at all times.

5.21. **Nuisance.** No obnoxious or offensive activity will be carried on within the Property, nor will anything be done or permitted which will constitute a public nuisance. No noise or other nuisance will be permitted to exist or operate upon the Property so as to be offensive or detrimental to any other part of the Property or its occupants.

## **ARTICLE 6.** **OWNERS' OBLIGATIONS FOR MAINTENANCE**

6.1. **Owner's Responsibility for Lot.** Except as provided in the Declaration and Rules and Regulations or by written agreement with the Association, all maintenance of each Lot and the Improvements located thereon shall be the sole responsibility of the Lot Owner. Each Owner will maintain his or her respective Lot in accordance with the community-wide standard of

the Project. The Association may assume the maintenance responsibilities of such Owner upon an affirmative vote by a simple majority of the Members of the Association that the level and quality of maintenance provided by such Owner does not satisfy such standard. Before assuming the maintenance responsibilities, the Board will notify the Owner in writing of its intention to do so, and if the Owner has not commenced and diligently pursued remedial action within thirty (30) days after receipt of such written notice, then the Association will proceed to assume such responsibilities. The expense of and maintenance assumed by the Board will be reimbursed to the Association by the Owner within thirty (30) days after the Association notifies the Owner of the amount due

6.2. **Owner's Negligence.** If the need for maintenance, repair, or replacement of any portion of the Common Areas (including Improvements located thereon) arise due to the negligent or willful act or omission of an Owner or an Owner's family member, guest, invitee, or tenant, then the expenses incurred by the Association for the maintenance, repair, or replacement will be a personal obligation of that Owner. Such charges will constitute "Correction Assessments" as defined in Section 9.7 of the Bylaws. If any part of said Correction Assessment is not paid and received by the Corporation or its designated agent within thirty (30) days after the date of notice to the Owner, an automatic late charge of one and one-half percent (1 ½%) shall be assessed for each month until all charges are paid.

## **ARTICLE 7. ASSESSMENTS**

7.1. **Creation of Lien and Personal Obligation for Assessments.** Each Owner of any Lot, by accepting a deed for a respective Lot, agrees to be bound by this Declaration including but not limited to "Assessments" as defined in the Bylaws and provided for herein.

Each such Assessment, together with fines, interest, all costs related thereto including, but not limited to, collection costs, attorney fees, and legal assistant fees, will also be the personal and individual obligation of the Owner of such Lot as of the time the Assessment becomes due. If the Lot is owned by two (2) or more Owners then each Owner will be jointly and severally liable for such obligations. No Owner may exempt himself from liability for any Assessment by abandonment of his Lot or by waiver of the use or enjoyment of the Common Areas or termination of membership in the Association. A suit to recover a money judgment for unpaid Assessments and related charges as described above and in the Bylaws may be maintained without foreclosing or waiving the Assessment lien provided in this Declaration.

7.2. **General Remedies of Association for Nonpayment of Assessment.** Any failure to pay any Assessment when due will be deemed delinquent. In the event that any Assessment becomes delinquent, the Association, in its sole discretion, may take any or all action provided for in the Bylaws and/or the following:

7.2.1. Assess a late charge for each delinquency at uniform rates set by the Board from time to time;

7.2.2. Charge interest from the date of delinquency at the rate of one and one-half percent (1 ½%);

7.2.3. Suspend the voting rights of the Owner during any period of delinquency pursuant to Section 2.3 of the Bylaws;

7.2.4. Accelerate all remaining Assessment installments for the fiscal year in question so that any unpaid Assessments for the remainder of the fiscal year will be due and payable at once;

7.2.5. Bring an action at law against any Owner personally obligated to pay the delinquent Assessment charges;

7.2.6. File a notice of lien with respect to the Lot and foreclose as set forth in more detail below.

7.3. **Assessment Lien.** Any Assessment chargeable to a Lot will constitute a lien on the Lot, effective on the date said Assessment is due and owing. To evidence the lien, the Association may prepare and record at the office of the Kootenai County Recorder a notice of lien with respect to the Lot, setting forth the name of the Owner, the legal description of the Lot, the name of the Association and the delinquent Assessment amounts then owing. Any such notice will be duly signed and acknowledged by an Officer or Director of the Association and will be served upon the Owner of the Lot by personal service or by certified or registered mail to the last known address of the Owner or Owners of the Lot. Thirty (30) days following the mailing of such notice to the Owner, the Association may proceed to foreclose the lien in the manner provided under Idaho law. The Association will have the power and the right to bid on a Lot at the foreclosure sale and to acquire, hold, lease, mortgage, and convey such Lot.

7.4. **Waiver of Homestead Exemption; Subordination of the Lien.** The Assessment liens will be superior to and prior to any homestead exemption provided for now or in the future by the laws of the State of Idaho and to all other liens and encumbrances except the following:

7.4.1. **Prior Liens.** Liens and encumbrances recorded before the date of recording the Declaration;

7.4.2. **Tax, Governmental, and Statutory Lien.** Liens for real estate taxes and other governmental assessments or charges duly imposed against the Lot by an Idaho governmental or political subdivision or special taxing district, or any other liens made superior by statute; and

7.4.3. **First Mortgage Liens.** The lien for all sums unpaid on a First Mortgage recorded before the date on which the Assessment sought to be enforced became delinquent, including any and all advances made by the First Mortgagee, even though some or all of such advances may have been made subsequent to the date of attachment of the Association's lien. Any First Mortgagee who acquires title to a Lot by virtue of foreclosing the First Mortgage or by virtue of a deed or assignment in lieu of such a foreclosure, or any purchaser at a foreclosure sale of the First Mortgage, will take the Lot free of any claims for unpaid Assessments, interest, late charges, costs, expenses, and attorneys' (and legal assistants') fees, as



provided in this Declaration and the Bylaws, whether or not such consent is specifically set forth in the instrument creating any such lien or encumbrance.

7.5. **Reallocation of Assessments Secured by Extinguished Liens.** The sale or transfer of any Lot to enforce any of the liens to which the Assessment lien is subordinate will extinguish such Assessment lien as to installments that became due prior to such sale or transfer. The amount of such extinguished lien may be reallocated and assessed to all Lots as a Common Expense at the direction of the Board. However, no such sale or transfer will relieve the purchaser or transferee of a Lot from liability for, or relieve the Lot from, the lien or Assessments made after the sale or transfer.

7.6. **Common Area Exempt Property.** Common Areas will be exempt from the Assessments, charges, and liens created under this Declaration.

7.7. **Failure to Assess.** The omission or failure of the Board to fix the Assessment amounts or rates or to deliver or mail to each Owner an Assessment notice will not be deemed a waiver, modification, or release of any Owner from the obligation to pay Assessments. In such event, each Owner will continue to pay Regular Assessments as defined in Section 9.3 of the Bylaws on the same basis as for the last year for which an Assessment was made until a new Assessment is made, at which time any shortfalls in collections may be assessed retroactively by the Association.

7.8. **Avista Utility Deposit.** In order to serve each Lot with certain utilities, Avista requires a utility service deposit. Such service deposit is charged against each Lot in the event that the Lot is not served by Avista within five (5) years from the date utilities become available. If an Owner fails to commence the use of Avista services before the end of the five (5) year period, the Owner shall, upon the demand of the Association or Avista, pay to Avista such sum within five (5) days of said demand.

## **ARTICLE 8.** **PROPERTY RIGHTS OF OWNERS**

8.1. **Emergency Access Easement.** A general easement is hereby granted to all police, sheriff, fire protection, ambulance, and all other similar emergency agencies or persons to enter upon all streets and upon the Property in the proper performance of their duties.

8.2. **Easements of Encroachment.** There shall be reciprocal appurtenant easements of encroachment for maintenance and use of any permitted encroachment between each Lot and any adjacent Common Area and between adjacent Lots or any Lot and the Club Property due to the unintentional placement, settling, or shifting of the improvements constructed, reconstructed, or altered thereon (in accordance with the terms of these restrictions) to a distance of not more than three (3) feet, as measured from any point on the common boundary along a line perpendicular to such boundary. However, in no event shall an easement for encroachment exist if such encroachment occurred due to willful and knowing conduct on the part of or with the knowledge and consent of, an Owner, occupant, or the Association.

**8.3. Easements for Utilities, Etc.** There are hereby reserved unto the Association, and its designees (including, without limitation, any utility) access and maintenance easements upon, across, over, and under all of the Properties to the extent reasonably necessary for the purpose of replacing, repairing, and maintaining cable television systems, master television antenna systems, security, and similar systems, roads, walkways, trails, lakes, ponds, wetlands, drainage systems, street lights, signage, and all utilities, including but not limited to water, sewers, meter boxes, telephone, gas, and electricity and for the purpose of installing any of the foregoing on the Property which it owns or within easements designated for such purposes on recorded Plats of the Property. The foregoing easements may traverse the private property of any Owner; provided, however, an easement shall not entitle the holders to construct or install any of the foregoing systems, facilities, or utilities over, under, or through any existing Dwelling Unit. Any damage to a Lot resulting from the exercise of an easement shall promptly be repaired by and at the expense of the Person exercising the easement. The exercise of an easement shall not unreasonably interfere with the use of any Lot and, except in an emergency, entry onto any Lot shall be made only after reasonable notice to the Owner or occupant.

The Avondale Irrigation District or Hayden Lake Country Club Sewer District, electric company, natural gas company, and cable television or communications systems supplier, have easements across the Property for ingress, egress, installation, reading, replacing, repairing, and maintaining utility meters and boxes. However, the exercise of this easement shall not extend to permitting entry into the Dwelling Unit on any Lot, nor shall any utilities be installed or relocated on the Property, except as approved by the Board.

Should any entity furnishing a service covered by the general easement herein provided, request a specific easement by separate recordable document, the Board shall have the right to grant such easement over the Property without creating a conflict with the terms hereof. The easements provided for in this Article shall in no way adversely affect any other validly recorded easement on the Property.

The Board shall have the right and power to dedicate portions of the Common Areas to any local, state, or federal governmental, or quasi-governmental entity.

**8.4. Easements for Club Property.**

8.4.1. Every Lot and the Common Areas, are burdened with an easement permitting errant golf balls to come upon the Lots or Common Areas adjacent to the Club Property and for golfers, at reasonable times and in a reasonable manner, to come upon the exterior portions of a Lot, or Common Area to retrieve errant golf balls. The existence of this easement shall not relieve golfers of liability for damage caused by errant golf balls. Under no circumstances shall any of the following Persons be held liable for any damage or injury resulting from errant golf balls or the exercise of this easement: the Association or its Members (in their capacity as such); the Club, its successors, successors-in-title to the Club Property, or

assigns; or any other person or entity submitting property to this Declaration, by builder or contractor (in their capacities as such); and officer, director, or partner of any of the foregoing, or any officer or director of any partner.

8.4.2. The owner of the Club Property, its respective agents, successors and assigns, shall at all times have a right and non-exclusive easement of access and use of those portions of the Common Areas reasonably necessary to the operation, maintenance, repair, and replacement of the Club Property.

8.4.3. The Lots immediately adjacent to the Club Property are hereby burdened with a non-exclusive easement in favor of the Club Property for over spray of water from any irrigation system serving the Club Property. Under no circumstances shall the Association or the owner of the Club Property be held liable for any damage or injury resulting from over spray or the use of this easement.

8.5. **Right of Entry.** The Association shall have the right, but not the obligation, to enter upon any Lot for emergency, security, and safety reasons, to perform maintenance pursuant to Article 6 hereof, and to inspect for the purpose of ensuring compliance with this Declaration, as amended from time to time, any Supplemental Declaration, as amended from time to time, the Bylaws, the Design Guidelines, and any rules governed by this Declaration, which right may be exercised by any member of the Board, the Association, officers, agents, employees, and all policemen, firemen, ambulance personnel, and similar emergency personnel in the performance of their duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner. This right of entry shall include the right of the Association to enter upon any Lot to cure any condition which may increase the possibility of a fire or other hazard in the event an Owner fails or refuses to cure the condition within a reasonable time after an appropriately issued request by the Board, but shall not authorize entry into any Dwelling Unit without permission of the Owner except by emergency personnel acting in their official capacities.

#### **ARTICLE 9.** **ADDITIONAL RESERVED RIGHTS**

9.1. **Reservation for Expansion and Construction.** The Association, on behalf of the Owners in all current and future phases of the Hayden Lake Country Club Estates community has a perpetual easement and right-of-way for access over, upon, and across the Property for construction, utilities, drainage, ingress, and egress, and for the use of the Common Areas. The Association may make the location of these easements and right-of-ways certain by instruments recorded in Kootenai County, Idaho.

9.2. **Reservations of Easements, Exceptions, and Exclusions for Utilities, Infrastructure, and Access.** The Association, acting through the Board has the right to establish from time to time, by declaration or otherwise, utility and other easements, permits, or licenses over the Common Areas for purposes including but not limited to streets, paths, walkways, drainage,

recreation areas, and parking areas, and to create other reservations, exceptions, and exclusions in the interest of the Owners and the Association in order to serve the Owners within the Hayden Lake Country Club Estates community as initially built and expanded.

The Association has the right to establish from time to time, by instruments recorded in Kootenai County, Idaho, such easements, permits, or licenses over the Common Areas for access by certain persons (other than Owners and Owners' families and guests) who may be permitted to use designated portions of the Common Areas as contemplated under this Declaration.

9.3. **Maintenance Easement.** The Association, the Board, and their respective officers, agents, employees, and assigns, have an easement upon, across, over, in, and under the Property and a right to make such use of the Property as may be necessary or appropriate to make emergency repairs or to perform the duties and functions which the Association is obligated or permitted to perform including but not limited to the right to enter upon any Lot for the purpose of maintaining the landscaping of or the making of exterior improvements to such Lot. Owners of the planned Club Property have an easement located upon the Lots described on the Plat upon, across, over, in, and under the Property and a right to make such use of the Property as may be necessary or appropriate for construction, maintenance, and repair of the planned Club Property (including clubhouse and other improvements and amenities) in such manner and at such times of the day or night as may be deemed appropriate in the sole discretion of the Owner of the planned Club Property.

9.4. **Drainage Easement.** The Association, its officers, agents, employees, successors, and assigns have an easement to enter upon, across, over, in, and under any portion of the Property for the purpose of changing, correcting, or otherwise modifying the grade or drainage channels of the Property so as to improve the drainage of water. Reasonable efforts will be made to use this easement so as not to disturb any use by the Owners and the Association to the extent possible; to prosecute such drainage work promptly and expeditiously; and to restore any areas affected by such work to a slightly and usable condition as soon as reasonably possible following such work. The approval of the Board shall be obtained prior to undertaking any such drainage work, which approval will not be unreasonably withheld.

9.5. **Easements Deemed Created.** All conveyances of Lots hereafter made will be construed to grant and reserve the easements contained in this Article, even though no specific reference to such easements or to this Article appears in the instrument for such conveyance.

## **ARTICLE 10.** **CLUB PROPERTY**

10.1. **Club Property.** The golf course is privately owned and operated by the Club and is not a part of the Common Areas hereunder. Nothing in this Declaration nor any designation or reference on any Plat, Final Development Plan, the Hayden Lake Country Club Estates' P.U.D. document, approval document issued by any government entity, drawing, advertisement, brochure, or any other document in any way relating to the Hayden Lake Country Club Estates community or any oral representation of any agent of the Developer or any party related to Developer shall give

rise to any right, whether expressed or implied, of an owner to play golf, have access to Club Property, become a member of the Club, require the Developer to construct or maintain the area as Club Property or otherwise impose any obligation of Developer relating in any way to the proposed Club Property. All arrangements relating to any Owner and the planned Club Property must be by written agreement between the respective Owner and the Club. The Club has the exclusive right to determine from time to time, in its sole discretion and without notice or approval of any change, how and by whom the Club Property shall be used. By way of example, but not limitation, the Club has the right to approve users and determine eligibility for use, to terminate any or all use rights, to change, eliminate, or cease operation of any or all of the Club Property, to transfer any or all of its rights to the Club Property or the operation thereof to anyone and on any terms which it deems appropriate, to limit the availability of use privileges, and to require the payment of a purchase price, initiation fee, membership deposit, dues, and other charges for the use privileges. **OWNERSHIP OF A LOT OR ANY PORTION OF THE PROPERTY OR MEMBERSHIP IN THE ASSOCIATION DOES NOT GIVE ANY VESTED RIGHT OR EASEMENT, PRESCRIPTIVE OR OTHERWISE, TO USE THE CLUB PROPERTY OR TO ACQUIRE A MEMBERSHIP IN THE CLUB AND DOES NOT GRANT ANY OWNERSHIP OR MEMBERSHIP INTEREST IN THE CLUB OR THE CLUB PROPERTY.**

10.2. **Acknowledgements.** Each Owner, by acceptance of a deed or recorded contract of sale to a Lot acknowledges:

10.2.1. That privilege to use the Club Property shall be subject to the terms and conditions of the membership documents for the Club, as the same may be amended from time to time. Acquisition of a membership in the Club requires the payment of a membership deposit, and the membership dues, fees and charges. The Club as set forth in the Membership Plan Documents shall determine these amounts for the Club. Notwithstanding the fact that the Club Property is open space or a recreation area for purposes of applicable zoning ordinances and regulations, each Owner, by acquisition of title to a Lot, releases and discharges forever the Club and its partners, officers, directors, managers, employees, agents, and affiliates from: (1) any claim that the Club Property is, or must be, owned and/or operated by the Association, and (2) any claim that the Owners are entitled to use the Club Property by virtue of their ownership of a Lot without submitting a membership deposit and paying dues, fees, and charges established by the Club from time to time and complying with the terms and conditions of the membership plan documents for the Club.

10.2.2. That any entry upon the Club Property without permission of the Club may be deemed a trespass and each Owner shall refrain from and shall cause all occupants of such Owner's Lot, including guests and invitees to refrain from any unauthorized entry upon the Club Property.

10.2.3. That the proximity of Lots and Common Areas to the Club Property creates certain foreseeable risks, including but not limited to the risk of damage or injury from errant golf balls and that each Owner's use and enjoyment of his or her Lot and the Common Areas may be limited as a

result and that neither the Association nor the Club shall have any obligation to take steps to remove or alleviate such risks, nor shall they have any liability to an Owner or occupant of any Lot or his, her, or their guests or invitees for damage or injury resulting from errant golf balls being hit upon any Lots or Common Areas. Each Owner expressly assumes the risks referenced herein.

10.2.4. That the Club and its designees may add to, remove or otherwise modify the landscaping, trees, and other features of the Club Property, including changing the location, configuration, size, and elevation of bunkers, fairways, and greens, and constructing fences. Neither the Club nor the Association shall have any liability to the Owner as a result of such modifications to the Club Property.

10.2.5. That there are no express or implied easements over the Club Property for view purposes and no guarantee or representation is made that any view over and across the Club Property will be preserved without impairment and that neither the Club nor the Association shall have any obligation to take any actions, including pruning or thinning trees or other landscaping, to preserve, create, or enhance views over the Club Property.

10.2.6. That no representations or warranties which are inconsistent with this Article of this Declaration, either verbal or written, have been made or are made by the Association or by any person acting on its behalf.

10.3. **Assumption of Risk and Indemnification.** Each Owner by its purchase of a Lot expressly assumes the risks associated with the Club Property (regardless of whether the Owner is using the Club Property) and agrees that neither the Club nor the Association, or any of their affiliates, agents, or any other entity designing, constructing, owning, or managing the Club Property or planning or constructing the Owner's Lot shall be liable to Owner or any other person claiming any loss or damage, including, without limitation, indirect, special, or consequential loss, or damage arising from personal injury, destruction of property, loss of view, noise pollution, or other visual or audible offenses, or trespass or any other alleged wrong or entitlement to remedy based upon, due to, arising from, or otherwise related to the proximity of the Owner's Lot or Common Areas to the Club Property.

#### **ARTICLE 11.** **INSURANCE AND FIDELITY BONDS**

11.1. **Authority to Purchase.** The Board or its duly authorized agent, on behalf of the Association, will purchase all insurance policies relating to the Common Areas. The Board will not be liable for failure to obtain any coverage required by this Article or for any loss or damage resulting from such failure if such failure is due to the unavailability of such coverage from reputable insurance companies or if such coverage is available only at demonstrably unreasonable costs.

11.2. **General Insurance Provisions.** The following provision will govern all such insurance coverage obtained by the Board:

11.2.1. The deductible, if any, on any insurance policy purchased by the Board may be treated as an Assessment as provided for herein and in the Bylaws to promote the recreation, health, safety, and welfare of the Owners and to protect the value of property located in the Project which are payable from Regular Assessments or Special Assessments as defined in Sections 9.3 and 9.5 of the Bylaws, allocable to all of the Lots or to only some of the Lots, if the claims for damages arise from the negligence of particular Owners or if the repairs benefit only particular Owners or as an item to be paid as a capital expenditure as defined in Section 9.14 of the Bylaws. The Board shall, in its sole discretion, determine the treatment and allocation of any deductible.

11.3. **Physical Damage Insurance on Common Areas.** The Association will obtain insurance for Improvements within the Common Areas with such coverage, limits, deductibles, and other terms and conditions as the Board may determine from time to time.

11.4. **Liability Insurance.** The Association will obtain a comprehensive policy of public liability insurance and property damage insurance with such coverage, limits, deductibles, and terms and conditions as the Board may from time to time determine. Such insurance shall provide coverage to each member of the Board, the Association, and their respective employees, agents, and all persons acting as agents against any liability to the public or the Owners, their guest, invitees, tenants, agents, and employees arising in connection with the ownership, operation, maintenance, or use of the Common Areas, streets and roads, and utilities within the Project and any other areas under the control of the Association.

The Board will review the coverage limits from time to time, but generally, the Board will carry such amounts of insurance usually required by private institutional mortgage lenders on projects similar to the Hayden Lake Country Club Estates community, and in no event will such coverage be less than One Million Dollars and 00/100 (\$1,000,000.00) for all claims for bodily injury or property damage arising out of one occurrence.

11.5. **Fidelity Insurance.** Fidelity bonds or insurance coverage may be maintained by the Association to protect against dishonest acts on the part of its officers, directors, trustees, and employees, and on the part of those who are responsible for handling the funds of or administered by the Association. In addition, if responsibility for handling funds is delegated to such bonds or insurance, coverage will be required for the officers, employees, and agents, as the Board may deem appropriate. Such fidelity bonds or insurance coverage will name the Association as an obligee or insured and will be written in such amount as the Board may determine appropriate.

11.6. **Provisions Common to Physical Damage Insurance, Liability Insurance, and Fidelity Insurance.** Any insurance coverage obtained by the Association under the preceding provisions of this Article will be subject to the following provisions and limitations:

- 11.6.1. **Named Insured.** The named insured under any such policies will include the Association.
- 11.6.2. **Owner as Insured.** Each Owner will be an insured person with respect to liability arising out of the Owner's interest in the Common Areas or membership in the Association.
- 11.6.3. **Authorized Representative.** The Association, or its authorized representative is hereby appointed as attorney-in-fact for the Owners and will have exclusive authority to negotiate losses on Owner's behalf under such policies.
- 11.6.4. **Personal Liability Insurance of Officers and Directors.** To the extent a suitable policy is obtainable at a reasonable cost, appropriate officers' and directors' personal liability insurance will be obtained by the Association to protect the officers and directors from personal liability arising from the exercise of their duties and responsibilities as officers and directors of the Association.
- 11.6.5. **Worker's Compensation Insurance.** The Association will obtain worker's compensation or similar insurance with respect to its employees, if any, in the amounts and forms as may now or hereafter be required by law.
- 11.6.6. **Other Insurance.** The Association may obtain insurance against such other risks, of a similar or dissimilar nature, as it may deem appropriate with respect to the Association's responsibilities and duties.

**ARTICLE 12.**  
**ASSOCIATION AS ATTORNEY-IN-FACT**

12.1. Each and every Owner hereby irrevocably constitutes and appoints the Association as such Owner's true and lawful attorney-in-fact in such Owner's name, place, and stead for the purpose of dealing with damage or destruction to Common Areas, Improvements, or any complete or partial taking. Acceptance by any grantee of a deed or other instrument of conveyance from any Owner will constitute appointment of the Association as attorney-in-fact as provided in this Article. As attorney-in-fact, the Association will have full and complete authorization, right and power to make, execute, and deliver any contract, assignment, deed, waiver, or other instrument with respect to the interest of any Owner that may be necessary or appropriate to exercise the powers granted to the Association as attorney-in-fact.

**ARTICLE 13.**  
**FIRST MORTGAGEE PROTECTIONS**

13.1. **Payment of Taxes and Insurance.** First Mortgagees, jointly or singly, may pay taxes or other charges which are in default and which may or have become a charge against any of the Common Areas or Improvements thereon, and may pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the



lapse of a policy, for the Common Areas. First Mortgagees making such payments will be owed immediate reimbursement from the Association but only when the Association has been notified ten (10) days prior to such expenditure.

13.2. **Cure of Delinquent Assessments.** A First Mortgagee will be entitled to cure any delinquency of the Owner of the Lot encumbered by the First Mortgage in payment of Assessments. In that event, the First Mortgagee will be entitled to obtain a release from any lien perfected by reason of such delinquency.

13.3. **Title Taken by First Mortgagee.** Any First Mortgagee who obtains title to a Lot pursuant to the remedies provided in the First Mortgage, including foreclosure of the First Mortgage, will be liable for all Assessments which become due and payable after the date title to the Lot vests in the First Mortgagee under the statutes of Idaho governing foreclosures, whether judicial or non judicial.

#### **ARTICLE 14.** **ENFORCEMENT OF COVENANTS**

14.1. **Violations Deemed a Nuisance.** Every violation of the Declaration and the Rules and Regulations is deemed to be a nuisance and is subject to all the remedies allowed at law or equity against any person responsible for such violation.

14.2. **Compliance.** Each Owner or other occupant of any part of the Property will comply with the provisions of this Declaration and the Rules and Regulations as the same may be amended from time to time.

14.3. **Failure to Comply.** Failure to comply with the Declaration and the Rules and Regulations will be grounds for an action to recover damages or for injunctive relief to cause any such violation to be remedied or both.

14.4. **Who May Enforce.** Any action to enforce the Declaration may be brought by the Association. If, after a written request from an aggrieved Owner, the Association fails to commence an action to enforce the Declaration or Rules and Regulations then the aggrieved Owner may bring such an action.

14.5. **Nonexclusive Remedies.** All the remedies set forth herein are cumulative and not exclusive.

14.6. **No Waiver.** The failure of the Association or any aggrieved Owner to enforce the Declaration or Rules and Regulations in any one or more instance will not be deemed a waiver of the right to do so for any subsequent violation or of the right to enforce any other part of the Declaration or Rules and Regulations at any future time.

14.7. **No Liability.** No member of the Board or any Owner will be liable to any other Owner for any failure to enforce the Declaration or Rules and Regulations.

14.8. **Recovery of Costs.** If legal assistance is obtained to enforce any of the provisions of the Declaration or Rules and Regulations or in any legal proceeding (whether or not suit is brought) for damages or for the enforcement of the Declaration or Rules and Regulations or the restraint of violations of the Declaration or Rules and Regulations, then the Association will be entitled to recover all costs incurred by it in such action, including reasonable attorneys' fees and legal assistants' fees as may be incurred or if suit is brought, may be determined by the court.

**ARTICLE 15.**  
**RESOLUTION OF DISPUTES**

15.1. **Hearing.** If any dispute or question arises between Members or between Members and the Association or relating to the interpretation, performance, or non-performance, violation or enforcement of the Declaration or Rules and Regulations, such dispute or violation may be subject to a hearing and determination by the Board in accordance with the procedures set forth in the Bylaws.

15.2. **Arbitration.** All claims, disputes, and other matters in question arising out of or relating to this Declaration or the breach of any provisions of this Declaration shall be decided by binding arbitration in accordance with the Idaho Uniform Arbitration Act. The agreement to arbitrate shall be specifically enforceable under Idaho law. The arbitration shall be held in Kootenai County, Idaho, unless the parties agree otherwise. In no event shall a demand for arbitration be made after the date when institution of legal or equitable proceedings based on such a claim, dispute, or other matters in question would be barred by the applicable statute of limitations. The award rendered by the arbitrators shall be final and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction.

15.2.1. **Selection of Arbitrators.** Each party shall select one (1) arbitrator within ten (10) days of the receipt of demand for arbitration. Within twenty (20) days after the receipt of a demand for arbitration, the two (2) selected arbitrators shall jointly select a third arbitrator to participate in the arbitration. If either party fails to select an arbitrator within the ten (10) day period, or if the two (2) selected arbitrators fail to agree on a third arbitrator, a party may make immediate application to the District Court for the First Judicial District of the State of Idaho located in Kootenai County for appointment of a second or third arbitrator, as the case may be.

**ARTICLE 16.**  
**DURATION OF THESE COVENANTS AND AMENDMENT**

16.1. **Term.** This Declaration and any amendments or supplements herein remain in effect from the date of recordation until the 50<sup>th</sup> anniversary of the date the Declaration is first recorded in the office of the Recorder of Kootenai County, Idaho. Thereafter this Declaration, as such may be amended from time to time, will be automatically extended for five (5) successive periods of ten (10) years each, unless otherwise terminated or modified as provided below.

16.2. **Association Modification or Termination.** This Declaration may be terminated or modified at any time by a written instrument executed by two-thirds (2/3) of the Board but shall

not be effective until ratified in writing by a majority of the members of each class of the membership or the sole class if only one class exists at that date.

16.3. **Effect of Amendments.** Amendments made pursuant to this Section will be appurtenant to each Lot and shall inure to the benefit of and be binding upon all Owners, their families, tenants, guests, invites, and employees, and their respective heirs, successors, and assigns. Joinder of the First Mortgagees shall not be required in order to effect an amendment.

#### **ARTICLE 17.** **MISCELLANEOUS PROVISIONS**

17.1. **Severability.** This Declaration, to the extent possible, will be construed or reformed so as to give validity to all of its provisions. Any provisions of this Declaration found to be invalid or unenforceable by a court of competent jurisdiction, will be ineffective to the extent of such invalidity or unenforceability without affecting the remainder of this Declaration, which shall continue in full force and effect the same as if the invalid or unenforceable provisions had not been included in the first instance.

17.2. **Construction.** In interpreting words in this Declaration, unless the context otherwise provides or requires, the singular will include the plural, the plural will include the singular, and references to the masculine, the feminine, or the neuter each include each other. This Declaration shall also be interpreted in accordance with Idaho law and shall be strictly interpreted to enforce the purpose of the Declaration, but all ambiguities shall be interpreted in favor of the Association. Definitions of this document and/or the Bylaws shall guide all interpretations. The Board's interpretations shall also be considered in order to encourage consistency.

17.3. **Paragraph Headings.** Paragraph headings are included only for purposes of convenient reference and shall not affect the meaning or interpretation of this Declaration.

17.4. **No Waiver.** No waiver by the Association or the Board shall be inferred from the failure of either, at any time or under any conditions, to give notice of default or to exercise or delay in exercising any right or remedy hereunder. No waiver will be effective unless it is in writing and signed by the President or Vice President of the Board on behalf of the Association. The fact that a condition or provision of this Declaration may have been once waived does not preclude future enforcement of that condition or provision.

17.5. **Limitation of Liability.** Neither the Association nor any partner, director, officer, or member thereof will be liable to any party for any action or for any failure to act with respect to any matter arising by, through, or under the Declaration or Rules and Regulations if the action or failure to act was made in good faith. The Association will indemnify all of the officers and Board members with respect to any act taken in their official capacity to the extent provided in this Declaration and by law in the Articles of Incorporation and Bylaws.

17.6. **Conflicts Between Documents.** In case of conflict between this Declaration and or the Bylaws, this Declaration will control.

DATED this 30<sup>th</sup> day of November, 2009.

**ASSOCIATION**

HAYDEN LAKE COUNTRY CLUB HOMEOWNERS, INC.  
An Idaho nonprofit corporation

By: Kathleen M Mathews Mike Borowski  
KATHLEEN M MATHES President MIKE BOROWSKI VICE PRESIDENT

STATE OF IDAHO )  
 ) ss.  
County of Kootenai )

Gina R Hardy  
GINA R. Hardy Treasury

On this 30<sup>th</sup> day of November 2009, before me, the undersigned, a notary public, personally appeared Kathleen Mathews Mike Borowski Gina Hardy, known to me or identified to me to be the President of the nonprofit corporation, HAYDEN LAKE COUNTRY CLUB HOMEOWNERS, INC. and the Director who subscribed the company name to the foregoing instrument, and acknowledged to me that he executed the same in the company name.

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



[Signature]  
Notary for the State of Idaho  
My Commission Expires: 4-1-15