DECLARATION OF

COVENANTS, CONDITIONS AND RESTRICTIONS

FOR

PEAKED MOUNTAIN RANCH SUBDIVISION

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DECLARATION OF

COVENANTS, CONDITIONS AND RESTRICTIONS

FOR

PEAKED MOUNTAIN RANCH SUBDIVISION

THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR PEAKED MOUNTAIN RANCH SUBDIVISION (“Declaration”) is made effective as of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ 202\_\_\_\_, by Powder Day Development, LLC, an Idaho limited liability company (“Grantor” and “Class B Member”). All capitalized terms not otherwise defined in the text hereof are defined in Article 3.

# RECITALS

Grantor owns that certain real property legally described on Exhibit A, attached hereto and made a part hereof by this reference, (the “Property”).

The purpose of this Declaration is to set forth the basic restrictions, covenants, limitations, easements, conditions, and equitable servitudes (collectively “Restrictions”) that apply to the Property . The Restrictions are designed to preserve the Property’s value, desirability, and attractiveness, to ensure a well integrated high-quality development, and to guarantee adequate maintenance of the Common Area, and the Improvements located thereon, in a cost effective and administratively efficient manner.

# DECLARATION

Grantor declares that the Property shall be held, sold, conveyed, encumbered, hypothecated, leased, used, occupied, and improved subject to the following terms, covenants, conditions, easements, and restrictions, all of which are declared and agreed to be in furtherance of a general plan for the protection, maintenance, subdivision, improvement, and sale of the Property, and to enhance the value, desirability, and attractiveness of the Property. The terms, covenants, conditions, easements, and restrictions set forth herein:

1. shall run with the land constituting the Property, and with each estate therein, and shall be binding upon all persons having or acquiring any right, title, or interest in the Property or any lot, parcel, or portion thereof;
2. shall inure to the benefit of every lot, parcel, or portion of the Property and any interest therein; and,
3. shall inure to the benefit of, and be binding upon, Grantor, Grantor’s successors in interest, and each grantee or Owner, and such grantee’s or Owner’s respective successors in interest, and may be enforced by Grantor, by any Owner, or such Owner’s successors in interest, or by the Association as hereinafter described.

Notwithstanding the foregoing, no provision of this Declaration shall be construed as to prevent or limit Grantor’s right to complete development of the Property and to construct improvements thereon, nor Grantor’s right to maintain model homes, construction, sales, or leasing offices, or similar facilities (temporary or otherwise) on any portion of the Property, including the Common Area or any public right-of-way, nor Grantor’s right to post signs incidental to construction, sales, or leasing, nor Grantor’s right to modify plans for the Property.

# DEFINITIONS

“**Architectural Committee**.” Architectural Committee shall mean the committee created by the Grantor or an Association pursuant to Article 10 hereof.

“**Articles**.” Articles shall mean the Articles of Incorporation of an Association or other organizational or charter documents of an Association.

“**Assessments**.” Assessments shall mean those payments required of Owners or other Association Members, including Regular, Special, and Limited Assessments of any Association as further defined in this Declaration.

“**Association**.” Association shall mean Peaked Mountain Ranch Homeowners Association, Inc., an Idaho non-profit corporation.

“**Association Rules**.” Association Rules shall mean those rules and regulations promulgated by an Association governing conduct upon and use of the Property under the jurisdiction or control of an Association, the imposition of fines and forfeitures for violation of Association Rules and regulations, and procedural matters for use in the conduct of business of an Association.

“**Board**.” Means the Board of Directors of the Association.

“**Building Lot**.” Building Lot shall mean any lot depicted any Plat and/or by Supplemental Declaration, upon which Improvements may be constructed; the term Lot does not include any real property owned by the Association as Common Area.

“**Bylaws**.” Bylaws shall mean the Bylaws of the Association.

“**Common Area**.” Common Area shall mean all real property in which the Association holds an interest or which is held or maintained, permanently or temporarily, for the common use, enjoyment, and benefit of the entire Subdivision and each Owner therein, and shall include, without limitation, all such parcels that are designated as private streets or drives, open space, common landscaped areas, and waterways, including, but not limited to Lot 9, Block 2 and Lot 13, Block 2 of the Plat. The Common Area may be established from time to time by Grantor on any portion of the Property by describing it on a Plat, by granting or reserving it in a deed or other instrument, or by designating it pursuant to this Declaration or any Supplemental Declaration. The Common Area may include easement and/or license rights.

“**Declaration**.” Declaration shall mean this Declaration as it may be amended from time to time.

“**Design Guidelines**.” Design Guidelines shall mean the construction guidelines approved by the Architectural Committee.

“**Grantor**.” Grantor shall mean Powder Day Development, LLC, an Idaho limited liability company, and its successors in interest, or any person or entity to whom the rights under this Declaration are expressly transferred by Grantor or its successor.

“**Improvement**.” Improvement shall mean any structure, facility, or system, or other improvement or object, whether permanent or temporary, which is erected, constructed, or placed upon, under, or in, any portion of the Property, including but not limited to buildings, fences, streets, drives, driveways, sidewalks, bicycle paths, curbs, landscaping, signs, lights, mail boxes, electrical lines, pipes, pumps, ditches, waterways, and fixtures of any kind whatsoever.

“**Limited Assessment**.” Limited Assessment shall mean a charge against a particular Owner and such Owners Building Lot, directly attributable to the Owner, equal to the cost incurred by the Association for corrective action or maintenance, repair, replacement and operation activities performed pursuant to the provisions of this Declaration or any Supplemental Declaration, including, without limitation, damage to or maintenance, repair, replacement and operation activities performed for any Common Area or the failure of an Owner to keep the Owner’s Building Lot in proper repair, including interest thereon as provided in this Declaration or a Supplemental Declaration or for nay goods or services provided by the Association benefiting less than all Owners.

“**Member**.” Member shall mean each person or entity holding a membership in the Association. Where specific reference or the context so indicates, it shall also mean persons or entities holding membership.

“**Owner**.” Owner shall mean the person or other legal entity, including Grantor, holding fee simple interest of record to a Building Lot which is a part of the Property, and sellers under executory contracts of sale, but excluding those having such interest merely as security for the performance of an obligation.

“**Person**.” Person shall mean any individual, partnership, corporation, or other legal entity.

“**Plat**.”  Plat shall mean the Peaked Mountain Ranch Subdivision recorded in the real property records of Teton County, Idaho as Instrument No. [202\_\_-\_\_\_\_\_\_\_\_\_\_\_\_] together with any subdivision plat covering any portion of the Property as recorded, or may be recorded, at the office of the County Recorder, Teton County, Idaho, as the same may be amended by duly recorded amendments thereof.

“**Property**.” Property shall mean the real property described in Exhibit A, including each lot, parcel, and portion thereof and interest therein, including all water rights associated with or appurtenant to such property, which are brought within the jurisdiction hereof by Supplemental Declaration or otherwise. The Property also may include, at Grantor’s sole discretion, such additional property in addition to that described in Exhibit A as may be annexed by means of Supplemental Declaration as provided herein.

“**Regular Assessment**.” Regular Assessment shall mean the portion of the cost of maintaining, improving, repairing, managing, and operating the Common Area and all Improvements located thereon, and the other costs of an Association which is to be levied against the Building Lot of and paid by each Owner to the Association, pursuant to the terms of this Declaration or a Supplemental Declaration.

“**Special Assessment**.” Special Assessment shall mean the portion of the costs of the capital improvements or replacements, equipment purchases and replacements or shortages in Regular Assessments which are authorized and to be paid by each Owner to the Association, pursuant to the provisions of this Declaration or a Supplemental Declaration.

“**Supplemental Declaration**.” Supplement Declaration shall mean any Supplemental Declaration including additional covenants, conditions, and restrictions that might be adopted with respect to any portion of the Property or that would annex additional lands into the Property.

“**Waterwa**y.” Waterway shall mean any surface water amenity, including, without limitation, any lake, pond, channel, slough, stream or reservoir, natural or artificial, which is located on the Property and which is included within or managed as Common Area.

# GENERAL AND SPECIFIC RESTRICTIONS

Structures – Generally.

 All structures are to be designed, constructed and used in such a manner as to promote compatibility between the types of use contemplated by this Declaration. All structures will comply with county height and setback requirements. No more than two (2) structures may be constructed on each Building Lot. Lots 1-5, Block 1 and Lots 1-3, Block 2, as depicted on the Plat, shall have a minimum livable square footage of 1,200 square feet. Lots 4-8, Block 2, and Lots 10-12, Block 2, as depicted on the Plat, shall have a minimum livable square footage of 1,600 square feet. Each Building Lot is only entitled to a single sewer connection to the central sewer serving the Property.

Use of Dwelling Structure.

 All Building Lots shall be used exclusively for single-family residential purposes. No Building Lot shall be improved except with a single-family dwelling unit or structure. Accessory dwelling units are permitted on lots of 1.5 acres or larger, must be attached to the primary dwelling unit, shall be less than 1,000 square feet of living space, and must comply with all applicable zoning and building regulations..

Architectural Committee Review.

 No Improvements which will be visible above ground or which will ultimately affect the visibility of any above ground Improvement shall be built, erected, placed, or materially altered or removed from the Property unless and until the building plans, specifications, and plot plan or other appropriate plans and specifications have been reviewed in advance by the Architectural Committee and the same have been approved in writing. The review and approval or disapproval may be based upon the following factors - size, height, design and style elements, mass and form, topography, setbacks, finished ground elevations, architectural symmetry, drainage, color, materials, including Architectural Committee approved architectural shingles roofing material, physical or aesthetic impacts on other properties, including Common Areas, artistic conformity to the terrain and the other Improvements on the Property, and any and all other factors which the Architectural Committee, in its reasonable discretion, deems relevant. Said requirements as to the approval of the architectural design shall apply only to the exterior appearance of the Improvements. This Declaration is not intended to serve as authority for the Architectural Committee to control the interior layout or design of residential structures except to the extent incidentally necessitated by use, size, and height restrictions.

No Further Subdivision.

 No Building Lot may be further subdivided.

Signs.

 No sign of any kind shall be displayed for public view without the approval of the Architectural Committee or Association, and the County if otherwise so required, except:

1. such signs as may be used by Grantor in connection with the development of the Property and sale of Building Lots;
2. temporary signs naming the contractors, the architect, and the lending institution for particular construction operation;
3. such signs identifying Subdivision, or informational signs, of customary and reasonable dimensions as prescribed by the Architectural Committee may be displayed on or from the Common Area; and,
4. one (1) sign of customary and reasonable dimensions not to exceed three (3) feet by two (2) feet may be displayed by an Owner other than Grantor on or from a Building Lot advertising the residence for sale or lease.
5. one (1) sign of customary and reasonable dimensions not to exceed three (3) feet by two (2) feet may be displayed by an Owner other than Grantor on or from a Building Lot in support of or in opposition to a candidate for office or a ballot measure that an Owner is entitled to vote on in accordance with applicable law (i.e. if a candidate or ballot measure is outside of the Owner’s voting district, signs related thereto are not qualifying “political signs” and are not permitted) only during the period that is thirty (30) days prior to the applicable election, and the signs will be removed within three (3) days after any the election.

Nuisances.

 No rubbish or debris of any kind shall be placed or permitted to accumulate anywhere upon the Property, including the Common Area or vacant Building Lots, and no odor shall be permitted to arise therefrom so as to render the Property or any portion thereof unsanitary, unsightly, offensive, or detrimental to the Property or to its occupants, or to any other property in the vicinity thereof or to its occupants. No noise or other nuisance, as described in the Teton County or Driggs City ordinances, as amended from time to time, shall be permitted to exist or operate upon any portion of the Property so as to be offensive or detrimental to the Property or to its occupants or to other property in the vicinity or to its occupants. Without limiting the generality of any of the foregoing provisions, no exterior speakers, horns, whistles, bells, or other sound devices (other than security devices used exclusively for security purposes which have been approved by the Association), flashing lights, or search lights, shall be located, used, or placed on the Property without the prior written approval of the Association.

Exterior Maintenance: Owner’s Obligations.

 No Improvement shall be permitted to fall into disrepair, and each Improvement shall at all times be kept in good condition and repair. In the event that any Owner shall permit any Improvement, including trees and landscaping, which is the responsibility of such Owner to maintain, to fall into disrepair so as to create a dangerous, unsafe, unsightly, or unattractive condition, or damages property or facilities on or adjoining their Building Lot which would otherwise be the Association’s responsibility to maintain, the Board of the Association, upon fifteen (15) days prior written notice to the Owner of such property, shall have the right to correct such condition, and to enter upon such Owner’s Building Lot for the purpose of doing so, and such Owner shall promptly reimburse the Association for the cost thereof. Such cost shall be a Limited Assessment and shall create a lien enforceable in the same manner as other Assessments set forth in Article 8 of this Declaration. The Owner of the offending property shall be personally liable, and such Owner’s property may be subject to a mechanic’s lien, for all costs and expenses incurred by the Association in taking such corrective acts, plus all costs incurred in collecting the amounts due, including attorney’s fees and costs. Each Owner shall pay all amounts due for such work within ten (10) days after receipt of written demand therefor, or the amounts may, at the option of the Board, be added to the amounts payable by such Owner as Regular Assessments. Each Owner shall have the remedial rights set forth herein if the applicable Association fails to exercise its rights within a reasonable time following written notice by such Owner.

Drainage.

 There shall be no interference with the established drainage pattern over any portion of the Property, unless an adequate alternative provision is made for proper drainage and is first approved in writing by the applicable Architectural Committee. For the purposes hereof, “established” drainage is defined as the system of drainage, whether natural or otherwise, which exists at the time the overall grading of any portion of the Property is completed by Grantor, or that drainage which is shown on any plans approved by the Architectural Committee, which may include drainage from the Common Area over any Building Lot in the Property.

No Hazardous Activities.

 No activities shall be conducted on the Property, and improvements constructed on any property which are or might be unsafe or hazardous to any person or property.

Unsightly Articles.

 No unsightly articles shall be permitted to remain on any Building Lot so as to be visible from any other portion of the Property. Without limiting the generality of the foregoing, refuse, garbage, and trash shall be kept at all times in such containers and in areas approved by the applicable Architectural Committee. No clothing or fabrics shall be hung, dried, or aired in such a way as to be visible to other property, and no equipment, treat pumps, compressors, containers, lumber, firewood, grass, shrub or tree clippings, plant waste, metals, bulk material, scrap, refuse, or trash shall be kept, stored or allowed to accumulate on any Building Lot except within an enclosed structure or as appropriately screened from view. No vacant residential structures shall be used for the storage of building materials.

No Temporary Structures.

 No house trailer, mobile home, tent, shack or other temporary building, improvement, or structure shall be placed upon any portion of the Property, except temporarily as may be required by construction activity undertaken on the Property. Also excepted from this requirement is any sales office established for the Property.

No Unscreened Boats, Campers, and Other Vehicles.

 No boats, trailers, campers, all-terrain vehicles, motorcycles, recreational vehicles, or similar equipment shall be placed upon any portion of the Property (including, without limitation, streets, parking areas, and driveways) unless the same are either (i) within ten feet (10’) of a permanent structure, or (ii) enclosed by a structure concealing them from view in a manner approved by the Architectural Committee. No dilapidated or unrepaired and unsightly vehicles shall be placed upon any portion of the Property unless the same are enclosed by a structure concealing them from view in a manner approved by the Architectural Committee.

Vehicles.

 The use of all vehicles, including, but not limited to, trucks, automobiles, bicycles, motorcycles, snowmobiles, aircraft, and boats, shall be subject to all Association Rules, which may prohibit or limit the use thereof within the Subdivision. No parking shall be permitted in any side, front, or backyard.

Landscaping and Fencing.

 The Owner of any Building Lot shall landscape such Building Lot in conformance with the landscape plan approved by the Association, and as approved by the Architectural Committee. Lots, 3-5, Block 1, and Lots 10-12, Block 2 as depicted on the Plat, all of which are adjacent to that certain public right-of-way commonly known as Ski Hill Road, shall not plant tall trees or shrubs within 60 feet of Ski Hill Road, and any berms erected or shrubs planted within 60 feet of Ski Hill Road should be not higher than seven feet above grade. The Owner of any Building Lot shall prevent the growth and spread of all noxious weeds on each Building Lot owned by such Owner in accordance with all applicable laws and pursuant to best practices. Building Lot landscaping plans that facilitate restoration of native plant species and restoration of sagebrush steppe are encouraged. All perimeter fencing erected by an Owner on a building lot shall be animal friendly fencing

Exemption of Grantor.

 Nothing contained herein shall limit the right of Grantor to subdivide or re-subdivide any portion of the Property, to grant licenses, to reserve rights-of-way and easements with respect to the Common Area to utility companies, public agencies, or others, or to complete excavation, grading, and construction of Improvements to and on any portion of the property owned by Grantor, or to alter the foregoing and its construction plans and designs, or to construct such additional Improvements as Grantor deems advisable in the course of development of the Property so long as any Building Lot in the Property remains owned by Grantor. Such right shall include, but shall not be limited to, erecting, constructing, and maintaining on the Property such structures and displays as may be reasonably necessary for the conduct of Grantor’s business of completing the work and disposing of the same by sales, lease or otherwise. Grantor shall have the right at any time prior to acquisition of title to a Building Lot by a purchaser from Grantor to grant, establish, and/or reserve on that Building Lot, additional licenses, reservations and rights-of way to Grantor, to utility companies, or to others as may from time to time be reasonably necessary to the proper development and disposal of the Property. Grantor may use any structures owned by Grantor on the Property as model home complexes or real estate sales or leasing offices for lots and homes within the Development. Grantor need not seek or obtain Architectural Committee approval of any Improvement constructed or placed by Grantor or an affiliate of Grantor on any portion of the Property owned by Grantor or an affiliate of Grantor. The rights of Grantor hereunder may be assigned by Grantor to any successor in interest in connection with Grantor’s interest in any portion of the Property, by an express written assignment recorded in the Office of the Teton County Recorder.

Conveyances to and from Municipalities.

 The Board shall have the power to convey any portion of the Common Area in the Subdivision to the City of Driggs or the County of Teton, the State of Idaho, or any political subdivision thereof. The Board shall also have the power to receive a conveyance of any property interest from the above-referenced entities, or any other individual or entity, and to hold such property interest as Common Area.

Municipal Requirements.

 The following covenants, conditions, and restrictions are required to be made by the City of Driggs and County of Teton and cannot be modified or terminated without both bodies written consent:

### **Bear Proof Containers**. All garbage containers located on the Property must be certified as bear proof.

### **Animal Leashes**. All animals must be restrained on leashes during the months of December through March, or such longer period as the Board may require. Leash requirements shall be imposed by the Board in the event of persistent wildlife on the Property.

### **Dark Sky**. All lights on the Property will comply with City of Driggs and County of Teton dark sky and other applicable lighting ordinances. All outdoor lighting will be low wattage and directed downward or shielded from illumination except downward.

# PEAKED MOUNTAIN RANCH HOMEOWNERS ASSOCIATION, INC.

Organization of Peaked Mountain Ranch Homeowners Association

, Inc.

 The Peaked Mountain Ranch Homeowners Association, Inc. (“Association”) shall be initially organized by Grantor as an Idaho nonprofit corporation under the provisions of the Idaho Code relating to general non-profit corporations and shall be charged with the duties and invested with the powers prescribed by law and set forth in the Articles, Bylaws, and this Declaration. Neither the Articles nor the Bylaws shall be amended or otherwise changed or interpreted so as to be inconsistent with this Declaration or with any Supplemental Declaration which Grantor might adopt pertaining to the Subdivision.

Membership.

 Each Owner, by virtue of being an Owner and for so long as such ownership is maintained, shall be a Member of the Association and no Owner, except Grantor, shall have more than one membership in the Association. Memberships in the Association shall be appurtenant to the Building Lot owned by such Owner. The memberships in the Association shall not be transferred, pledged, assigned, or alienated in any way except upon the transfer of Owner’s title and then only to the transferee of such title. Any attempt to make a prohibited membership transfer shall be void and will not be reflected on the books of the Association.

Voting.

 For voting purposes, the Association shall have two (2) classes of Members as described below:

### **Class A Members**. Owners other than Grantor, for so long as Grantor is the Class B Member, shall be known as Class A Members. Each Class A Member shall be entitled to cast one (1) vote for each Building Lot owned by such Class A Member on the day of the vote. Upon termination of the Class B Member, Grantor shall become a Class A Member.

### **Class B** **Member**. The Grantor shall be known as the Class B Member, and shall be entitled to eight (8) votes for each Building Lot of which Grantor is the Owner. The Class B Member shall cease to be a voting Member in the Association when the total cumulative votes of the Class A Members equal or exceed the total votes of the Class B Members.

Fractional votes shall not be allowed. If the Owner of a Building Lot shall be more than one (1) Person, all such Persons shall be deemed Members, but the voting rights in the Association attributable to that Building Lot may not be split and shall be exercised by one representative selected by such Persons as they, among themselves, may determine. In the event that such joint Owners are unable to agree among themselves as to how their vote or votes shall be cast, they shall lose their right to vote on the matter being put to a vote. When an Owner casts a vote, it will thereafter be presumed conclusively for all purposes that such Owner was acting with authority and consent of all joint owners of the Building Lot(s) from which the vote derived. The right to vote may not be severed or separated from the ownership of the Building Lot to which it is appurtenant, except that any Owner may give a revocable proxy, or may assign such Owner’s right to vote to a lessee, mortgagee, beneficiary, or contract purchaser of the Building Lot concerned, for the term of the lease, mortgage, deed of trust, or contract. Any sale, transfer, or conveyance of such Building Lot to a new Owner shall operate automatically to transfer the appurtenant voting right to the Owner, subject to any assignment of the right to vote to a lessee, mortgagee, or beneficiary as provided herein.

Board of Directors and Officers.

 The affairs of the Association shall be conducted and managed by a Board of Directors (“Board”) and such officers as the Board may elect or appoint, in accordance with the Articles and Bylaws, as the same may be amended from time to time. The Board of the Association shall be elected in accordance with the provisions set forth in the Association Bylaws.

Power and Duties of the Association.

###

### **Powers**. The Association shall have all the powers of a corporation organized under the general corporation laws of the State of Idaho subject only to such limitations upon the exercise of such powers as are expressly set forth in the Articles, the Bylaws, and this Declaration. The Association shall have the power to do any and all lawful things which may be authorized, required or permitted to be done by the Association under Idaho law and under this Declaration, and the Articles and Bylaws, and to do and perform any and all acts which may be necessary to, proper for, or incidental to the proper management and operation of the Common Area and the Association’s other assets (including water rights when and if received from Grantor) and affairs and the performance of the other responsibilities herein assigned, including without limitation:

#### **Assessments**. The power to levy Assessments on any Owner or any portion of the Property and to force payment of such Assessments, all in accordance with the provisions of this Declaration.

#### **Right of Enforcement**. The power and authority from time to time in its own name, on its own behalf or on behalf of any Owner who consents thereto, to commence and maintain actions and suits to restrain and enjoin any breach or threatened breach of this Declaration or the Articles or the Bylaws, including the Association Rules adopted pursuant to this Declaration, and to enforce by injunction or otherwise, all provisions hereof.

#### **Association Rules**. The power to adopt, amend, and repeal by majority vote of the Board such rules and regulations as the Association deems reasonable. The Association shall govern the use of the Common Areas through the adoption of Association Rules, including, but not limited to, the use of private streets by the Owners, their families, invitees, licensees, lessees, or contract purchasers; provided, however, that any Association Rules shall apply equally to all Owners and shall not be inconsistent with this Declaration, the Articles, or the Bylaws. A copy of the Association Rules as they may from time to time be adopted, amended, or repealed, shall be mailed or otherwise delivered to each Owner. Upon such mailing or delivery, the Association Rules shall have the same force and effect as if they were set forth in and were a part of this Declaration. In the event of any conflict between such Association Rules and any other provisions of this Declaration, or the Articles or the Bylaws, the provisions of the Association Rules shall be deemed to be superseded by provisions of this Declaration, the Articles, or the Bylaws to the extent of any such inconsistency.

#### **Emergency Powers**. The power, exercisable by the Association or by any person authorized by it, to enter upon any property (but not inside any building constructed thereon) in the event of any emergency involving illness or potential danger to life or property or when necessary in connection with any maintenance or construction for which the Association is responsible. Such entry shall be made with as little inconvenience to the Owner as practicable, and any damage caused thereby shall be repaired by and at the expense of the Association.

#### **Licenses, Easements, and Rights-of-Way**. The power to grant and convey to any third party such licenses, easements, and rights-of-way in, on, or under the Common Area as may be necessary or appropriate for the orderly maintenance, preservation, and enjoyment of the Common Area, and for the preservation of the health, safety, convenience, and welfare of the Owners, for the purpose of constructing, erecting, operating, or maintaining:

##### Underground lines, cables, wires, conduits, or other devices for the transmission of electricity or electronic signals-for lighting, heating, power, telephone, television, or other purposes, and the above ground lighting stanchions, meters, and other facilities associated with the provisions of lighting and services, public sewers, storm drains, water drains, and pipes, water supply systems, sprinkling systems, heating and gas lines or pipes, and any similar public or quasi-public improvements or facilities; and

##### Mailboxes and sidewalk abutments around such mailboxes, or any service facility, berms, fencing and landscaping abutting common areas, public and private streets or land conveyed for any public or quasi-public purpose including, but not limited to, bicycle pathways.

### **Duties**. In addition to duties necessary and proper to carry out the powers delegated to the Association by this Declaration, and the Articles and Bylaws, without limiting the generality thereof, the Association or its agent, if any, shall have the authority and the obligation to conduct all business affairs of the Association and to perform, without limitation, each of the following duties:

#### **Operation and Maintenance of the Common Area**. Adopt and open space management plan as part of the Association Rules, for the operation and maintenance of Common Area and otherwise manage, or provide for the operation, maintenance, and management of, the Common Area and Landscape Easement areas (as defined in Section 3.13), including the repair and replacement of property damaged or destroyed by casualty loss. Noxious weeds and maintain habitat.

#### **Reserve Account**. Establish and fund a reserve account with a reputable banking institution or savings and loan association or title insurance company authorized to do business in the State of Idaho, which reserve account shall be dedicated to the costs of repair, replacement, maintenance and improvement of the Common Area.

#### **Insurance**. Obtain insurance from reputable insurance companies authorized to do business in the State of Idaho, and maintain in effect any insurance policy the Board deems necessary or advisable.

#### **Rule Making**. Make, establish, promulgate, amend, and repeal such Association Rules as the Board shall deem advisable.

#### **Architectural Committee**. Appoint and remove members of the Architectural Committee, subject to the provisions of this Declaration.

#### **Enforcement of Restrictions and Rules**. Perform such other acts, whether or not expressly authorized by this Declaration, as may be reasonably advisable or necessary to enforce any of the provisions of the Declaration, or of the Articles or the Bylaws, including, without limitation, the recordation of any claim of lien with the Teton County Recorder, as more fully provided herein.

Personal Liability.

 No Member of the Board, or member of any committee of the Association, or any officer of the Association, or the Grantor, or the manager, if any, shall be personally liable to any Owner, or to any other party, including the Association, for any damage, loss, or prejudice suffered or claimed on the account of any act, omission, error, or negligence of the Association, the Board, the manager, if any, or any other representative or employee of the Association, the Grantor, or the Architectural Committee, or any other committee, or any owner of the Association, or the Grantor, provided that such person, upon the basis of such information as may be possessed by such person, has acted in good faith without willful or intentional misconduct.

Meetings of Association.

 Each year the Association shall hold at least one (1) meeting of the Members, according to the schedule for such meetings established by the Bylaws.

# RESERVED

# ASSESSMENTS

Covenant to Pay Assessments.

 By acceptance of a deed to any portion of the Property, each Owner of such property hereby covenants and agrees to pay when due all Assessments or charges made by the Association, including all Regular, Special, and Limited Assessments and charges made against such Owner pursuant to the provisions of this Declaration or other applicable instrument.

### **Assessment Constitutes Lien**. Such Assessments and charges, together with interest, costs, and reasonable attorney’s fees which may be incurred in collecting the same, shall be a charge on the land and shall be a continuing lien upon the property against which each such Assessment or charge is made.

Regular Assessments.

 All Owners, including the Grantor, are obligated to pay Regular Assessments to the treasurer of the Association on a schedule of payments established by the Board.

### **Purpose of Regular Assessments**. The proceeds from Regular Assessments are to be used to pay for all costs and expenses incurred by an Association, including legal and attorneys’ fees and other professional fees, for the conduct of its affairs, including without limitation the costs and expenses of construction, improvement, protection, maintenance, repair, management, and operation of the Common Areas, including all Improvements located on such areas owned and/or managed and maintained by such Association, and an amount allocated to an adequate reserve fund to be used for repairs, replacement, maintenance, and improvement of those elements of the Common Area, or other property of the Association that must be replaced and maintained on a regular basis (collectively “Expenses”). Expenses also include off-site road maintenance costs incurred under road maintenance agreement(s) the Association is a party to in order to the provide Owners with access to the Property.

### **Computation of Regular Assessments**. The Association shall compute the amount of its Expenses on an annual basis. The Board shall compute the amount of Regular Assessments owed beginning the first day of the third month following the month in which the closing of the first sale of a Building Lot occurred in Property for the purposes of the Association’s Regular Assessment (“Initiation Date”).

### **Amounts Paid by Owners**. The Board can require, in its discretion or as provided in the Articles or Bylaws, payment of Regular Assessments in monthly, quarterly, semi-annual, or annual installments. The Regular Assessment to be paid by any particular Owner for any given fiscal year shall be computed by multiplying the Association’s total advance estimate of Expenses by the fraction produced by dividing the Building Lots attributable to the Owner by the total number of Building Lots subject to this Declaration.

Special Assessments.

### **Purpose and Procedure**. In the event that the Board of the Association shall determine that its respective Regular Assessment for a given calendar year is or will be inadequate to meet the Expenses of the Association for any reason, including but not limited to costs of construction, reconstruction, unexpected repairs or replacement of capital improvements upon the Common Area, attorney’s fees and/or litigation costs, other professional fees, or for any other reason, the Board thereof shall determine the approximate amount necessary to defray such Expenses and levy a Special Assessment against the portions of the Property within its jurisdiction which shall be computed in the same manner as Regular Assessments. The Board shall, in its discretion, determine the schedule under which such Special Assessment will be paid.

### **Consistent Basis of Assessment**. Every Special Assessment levied by and for the Association shall be levied and paid upon the same basis as that prescribed for the levying and payment of Regular Assessments for the Association.

Limited Assessments

. Notwithstanding the above provisions with respect to Regular and Special Assessments, a Board may levy a Limited Assessment against a Member as a remedy to reimburse the Association for costs incurred in bringing the Member and/or such Member’s Building Lot into compliance with the provisions of the governing instruments for the Property, or for otherwise providing any goods or services benefiting less than all Members or such Members’ Building Lots.

Uniform Rate of Assessment

. Unless otherwise specifically provided herein, Regular and Special Assessments shall be fixed at a uniform rate per Building Lot for all Members of the Association.

Assessment Period

. Unless otherwise provided in the Articles or Bylaws, the Assessment period shall commence on January 1st of each year and terminate December 31st of the year in which the Initiation Date occurs. The first Assessment shall be pro-rated according to the number of months remaining in the fiscal year and shall be payable in equal monthly installments.

Notice and Assessment Due Date

. Ten (10) days prior written notice of Regular and Special Assessments shall be sent to the Owner of every Building Lot subject thereto, and to any person in possession of such Building Lot. The due dates for installment payment of Regular Assessments and Special Assessments shall be the first day of each month unless some other due date is established by the Board. Each monthly installment of the Regular Assessment of Special Assessment shall become delinquent if not paid within ten (10) days after the levy thereof. There shall accrue with each delinquent installment payment a late charge equal to ten percent (10%) of the delinquent installment. In addition, each installment payment which is delinquent for more than twenty (20) days shall accrue interest at eighteen percent (18%) per annum calculated from the date of delinquency to and including the date full payment is received by an Association. An Association may bring an action against the delinquent Owner and may foreclose the lien against such Owner’s Building Lot as more fully provided herein. Each Owner is personally liable for Assessments, together with all interest, costs and attorney’s fees, and no Owner may exempt such Owner from such liability by a waiver of the use and enjoyment of the Common Areas, or by lease or abandonment of such Owners Building Lot.

# ENFORCEMENT OF ASSESSMENT; LIENS

Right to Enforce

. The Association has the right to collect and enforce its Assessments pursuant to the provisions hereof. Each Owner of Building Lot, upon becoming an Owner of such Building Lot, shall be deemed to covenant and agree to pay each and every Assessment provided for in this Declaration and agrees to the enforcement of all Assessments in the manner herein specified. In the event an attorney or attorneys are employed for the collection of any Assessment, whether by suit or otherwise, or to enforce compliance with or specific performance of the terms and conditions of this Declaration, each Owner agrees to pay reasonable attorney’s fees in addition to any other relief or remedy obtained against such Owner. The Board or its authorized representative may enforce the obligations of the Owners to pay such Assessments by commencement and maintenance of a suit at law or in equity, or the Board may exercise the power of foreclosure and sale pursuant to paragraph 8.3 to enforce the liens created hereby. A suit to recover a money judgment for an unpaid Assessment shall be maintainable without foreclosing or waiving the lien hereinafter provided.

Assessment Liens.

### **Creation**. There is hereby created a claim of lien with power of sale on each and every Building Lot to secure payment of any and all Assessments levied against such Building Lot pursuant to this Declaration together with interest thereon at the maximum rate permitted by law and all costs of collection which may be paid or incurred by the Association making the Assessment in connection therewith, including reasonable attorney’s fees. All sums assessed in accordance with the provisions of this Declaration shall constitute a lien on such respective Building Lot upon recordation of a claim of lien with the Teton County Recorder. Such lien shall be prior and superior to all other liens or claims created subsequent to the recordation of the notice of delinquency and claim of lien except for tax liens for real property taxes on any Building Lot and Assessments on any Building Lot in favor of any municipal or other governmental assessing body which, by law, would be superior thereto.

### **Claim of Lien**. Upon default of any Owner in the payment of any Regular, Special or Limited Assessment issued hereunder, the Association may cause to be recorded in the office of the Teton County Recorder a claim of lien. The claim of lien shall state the amount of such delinquent sums and other authorized charges (including the cost of recording such notice), a sufficient description of the Building Lot(s) against which the same have been assessed, and the name of the record Owner thereof. Each delinquency shall constitute a separate basis for a notice and claim of lien, but any number of defaults may be included within a single notice and claim of lien. Upon payment to the Association of such delinquent sums and charges in connection therewith or other satisfaction thereof, the Association shall cause to be recorded a further notice stating the satisfaction of relief of such delinquent sums and charges. The Association may demand and receive the cost of preparing and recording such release before recording the same.

Method of Foreclosure

. Such lien may be foreclosed by appropriate action in court or by sale by the Association establishing the Assessment, its attorney or other person authorized to make the sale. Such sale shall be conducted in accordance with the provisions of the Idaho Code applicable to the exercise of powers of sale permitted by law. The Board is hereby authorized to appoint its attorney, any officer or director of the Association, or any title company authorized to do business in Idaho as trustee for the purpose of conducting such power of sale or foreclosure.

Required Notice

. Notwithstanding anything contained in this Declaration to the contrary, no action may be brought to foreclose the lien created by recordation of the notice of delinquency and claim of lien, whether judicially, by power of sale or otherwise, until the expiration of thirty (30) days after a copy of such claim of lien has been deposited in the United States mail, certified or registered, postage prepaid, to the Owner of the Building Lot(s) described in such notice of delinquency and claim of lien, and to the person in possession of such Building Lot(s) and a copy thereof is recorded by the Association in the Office of the Teton County Recorder.

# INSPECTION OF ASSOCIATION’S BOOKS AND RECORDS

Member’s Right of Inspection

. The membership register, books of account and minutes of meetings of the Board and committee of an Association shall be made available for inspection and copying by any Member of the Association or by such Member’s duly appointed representatives, at any reasonable time and for a purpose reasonably related to such Member’s interest as a Member at the office of the Association or at such other place as the Board of such Association shall prescribe. No Member or any other person, except Grantor, shall copy the membership register for the purposes of solicitation of or direct mailing to any Member of the Association.

Rules Regarding Inspection of Books and Records

. The Board shall establish reasonable rules with respect to:

### Notice to be given to the custodians of the records by the persons desiring to make the inspection.

### Hours and days of the week when such an inspection may be made.

### Payment of the cost of reproducing copies of documents requested pursuant to this Article 9.

Director’s Rights of Inspection

. Every director shall have the absolute right at any reasonable time to inspect all books, records and documents of the Association, and the physical properties owned or controlled by the Association. The right of inspection by a director includes the right to make extracts and copies of documents.

# ARCHITECTURAL COMMITTEE

Creation

. Within thirty (30) days of the date on which the Grantor first conveys a Building Lot to an Owner, Grantor shall appoint three (3) individuals to serve on the Architectural Committee (“Architectural Committee”). Each member shall hold office until such time as such member has resigned or has been removed, or such member’s successor has been appointed, as provided herein. A member of the Architectural Committee need not be an Owner. Members of the Architectural Committee may be removed by the person or entity appointing them at any time without cause.

Grantor’s Right of Appointment

. At any time, and from time to time, prior to the termination of the Class B Member, Grantor shall have the exclusive right to appoint and remove all members of the Architectural Committee. At all other times, the Association Board shall have the right to appoint and remove all members of the Architectural Committee. If a vacancy on the Architectural Committee occurs and a permanent replacement has not yet been appointed, Grantor or the Board, as the case may be, may appoint an acting member to serve for a specified temporary period not to exceed one (1) year.

Review of Proposed Construction

. The Architectural Committee shall consider and act upon any and all proposals or plans and specifications submitted for its approval pursuant to this Declaration, and perform such other duties as from time to time shall be assigned to it by the Board, including the inspection of construction in progress to assure its conformance with plans approved by the Architectural Committee. The Board shall have the power to determine, by rule or other written designation consistent with this Declaration, which types of Improvements shall be submitted for Architectural Committee review and approval. The Architectural Committee shall have the power to hire an architect, licensed with the State of Idaho, to assist the Architectural Committee in its review of proposals or plans and specifications submitted to the Architectural Committee.

### **Conditions on Approval**. The Architectural Committee may condition its approval of proposals or plans and specifications upon such changes therein as it deems appropriate, and/or upon the agreement of the Applicant to reimburse the Association for the cost of maintenance, and may require submission of additional plans and specifications or other information before approving or disapproving material submitted.

### **Architectural Committee Rules and Fees**. The Architectural Committee also may establish rules and/or guidelines setting forth procedures for and the required content of the applications and plans submitted for approval. Such rules may require a fee to accompany each application for approvals or additional factors which it will take into consideration in reviewing submissions. The Architectural Committee shall determine the amount of such fee in a reasonable manner. Such fees shall be used to defray the costs and expenses of the Architectural Committee, including the cost and expense of hiring an architect licensed by the State of Idaho, as provided above, or for such other purposes as established by the Board, and such fee shall be refundable to the extent not expended for the purposes herein stated.

Grantor’s Exemption

. Any and all Improvements constructed by Grantor on or to the Property are not subject to review and approval by the Architectural Committee.

# RESERVED

# EASEMENTS

Easements of Encroachment

. There shall be reciprocal appurtenant easements of encroachment as between each Building Lot and such portion or portions of the Common Area adjacent thereto or as between adjacent Building Lots due to the unwilful placement or settling or shifting of the sidewalks and driveways constructed, reconstructed or altered thereon in accordance with the terms of this Declaration. Easements of encroachment shall be valid only so long as they exist, and the rights and obligations of Owners shall not be altered in any way because of encroachments, settling or shifting of the Improvements; provided, however, that in no event shall a valid easement for encroachment occur due to the willful act or acts of an Owner. In the event a structure on any Building Lot is partially or totally destroyed, and then repaired or rebuilt, the owners of each Building Lot agree that minor encroachments over adjoining Building Lots that existed prior to the encroachment may be reconstructed pursuant to the easement granted by this paragraph 12.1

Easements of Access

. All Owners of Building Lots will have a perpetual easement for access, ingress and egress over the Common Area, including but not limited to the private streets, cul-de-sacs and walkways. Such easements shall run with the land, and may be used by Grantor, and by all Owners, their guests, tenants and invitees, residing on or temporarily visiting the Property, for pedestrian walkways, vehicular access and such other purposes reasonably necessary for the use and enjoyment of a Building Lot of Common Area.

Drainage and Utility Easements

. Grantor expressly reserves for the benefit of all the Property reciprocal easements of access, ingress and egress for all Owners to and from their respective Building Lots for installation and repair of utility services, for drainage of water over, across and upon adjacent Building Lots, and Common Areas, resulting from the normal use of adjoining Building Lots or Common Areas, and for necessary maintenance and repair for any improvement including fencing, retaining walls, lighting facilities, mailboxes and sidewalk abutments, trees, and landscaping. Notwithstanding anything expressly or impliedly contained herein to the contrary, this Declaration shall be subject to all easements heretofore or hereafter granted by Grantor for the installation and maintenance of utilities and drainage facilities that are required for the development of the Property. In addition, Grantor hereby reserves for the benefit of the Association the right to grant additional easements and rights-of-way over the Property and/or a Tract, as appropriate, to the Property until close of escrow for the sale of the last Building Lot in the property to a purchaser.

### **Improvement of Drainage and Utility Easement Areas**. The owners of Building Lots are hereby restricted and enjoined from constructing any Improvements upon any drainage or utility easement areas as shown on the Plat or otherwise designated in any recorded document which would interfere with or prevent the easement from being used for such purpose; provided, however, that the Owner of such Building Lot and the Grantor, Association or designated entity with regard to the Landscaping Easement described in this Article 12, shall be entitled to install and maintain landscaping on such easement areas, and also shall be entitled to build and maintain fencing on such easement areas subject to approval by the Association and/or the Architectural Committee, so long as the same would not interfere with or prevent the easement areas from being used for their intended purposes; provided, that any damage sustained to improvements on the easement areas as a result of legitimate use of the easement areas shall be the sole and exclusive obligation of the Owner of the Building Lot whose Improvements were so damaged.

Rights and Duties Concerning Utility Easements

. The rights and duties of the Owners of the Building Lots within the Property with respect to utilities shall be governed by the following:

### Wherever utility house connections are installed within the Property, which connections or any portions thereof lie in or upon Building Lots owned by an Owner other than the Owner of the Building Lot served by the connections, the Owner of the Building Lot served by the connections shall have the right, and is hereby granted an easement to the full extent necessary therefor, to enter upon any Building Lot or to have their agent enter upon any Building Lot within the Property in or upon which said connections or any portion thereof lie, to repair, replace and generally maintain the connections as and when it may be necessary.

### Whenever utility house connections are installed within the Property, which connections serve more than one Building Lot, the Owner of each Building Lot served by the connections shall be entitled to full use and enjoyment of such portions of said connections as service to such Owner’s Building Lot.

Driveway Easements

. Whenever a driveway is installed within the Property which in whole or in part lies upon a Building Lot owned by an Owner other than the Owner of the Building Lot served by such driveway, or whenever a driveway is installed to serve more than one Building Lot, the Owner of each Building Lot served or to be served by such driveway shall be entitled to full use and enjoyment of such other Building Lot as required to service such Owner’s Building Lot or to repair, replace, or maintain such driveway.

Disputes as to Sharing of Costs

. In the event of a dispute between Owners with respect to the repair or rebuilding of utility connections or driveways, or with respect to the sharing of the cost therefor, upon written request of one of such Owners addressed to the Association, the matter shall be submitted to the Board which shall decide the dispute and, if appropriate, make an appropriate Assessment against any or all of the Owners involved on behalf of the prevailing Owner(s), which Assessment shall be collected and enforced in the manner provided by this Declaration for Limited Assessments.

General Landscape Easement

. An easement is hereby reserved to each appropriate Association, its contractors and agents, to enter those portions of Building Lots, for the purpose of installing, maintaining, replacing, and restoring exterior landscaping, and natural vegetation and habitat. Such landscaping activity shall include, by way of illustration and not of limitation, the mowing of lawns, irrigation, sprinkling, tree and shrub trimming and pruning, walkway improvement, seasonal planting, and such other landscaping activities within the Property as such Association shall determine to be necessary from time to time.

Maintenance and Use Easement Between Walls and Lot Lines

. Whenever the wall of a structure, or a fence or retaining wall legitimately constructed on a Building Lot under plans and specifications approved by the Architectural Committee is located within five (5) feet of the lot line of such Building Lot, the Owner of such Building Lot is hereby granted an easement over and on the adjoining Building Lot (not to exceed five (5) feet from the Building Lot line) for purposes of maintaining and repairing such wall or fence and eaves or other overhangs, and the Owner of such adjoining Building Lot is hereby granted an easement for landscaping purposes over and on the area lying between the lot line and such structure or fence so long as such use does not cause damage to the structure or fence.

Waterway Easements

. Grantor hereby reserves for the benefit of the Association an easement for all Waterways and related pipes, pumps and other equipment over, across and under all Building Lots and Common Areas, to the extent reasonably required to maintain any water system installed by Grantor on the Property or pursuant to plans and specifications approved by the Architectural Committee. Any relocation of the water lines installed as a part of such system shall not be undertaken in any way which interrupts the flow of water through the system or damages the system in any other fashion. Grantor reserves the right to make any reconfiguration of any Waterway which it determines, in its own discretion, to be necessary, expedient or desirable, provided, however, that nothing herein shall reserve unto Grantor the right to take any action which would disturb, encroach upon, or endanger the foundation of any building, nor shall Grantor take any action which would materially alter any Waterway’s proximity to improved property abutting such Waterways.

Specific Landscape Easement

. Grantor hereby reserves for the benefit of the Association a perpetual Landscape Easement. Such easement shall allow the Association to install and maintain the berms, retaining walls, fences, and landscaping within the area defined as the Landscape Easement.

# MISCELLANEOUS

Term

. The easements created hereunder shall be perpetual, subject only to extinguishment by the holders of such easements as provided by law. The covenants, conditions, restrictions, and equitable servitudes of this Declaration shall run until December 31, 2042, unless amended as herein provided. After such date, such covenants, conditions, and restrictions shall be automatically extended for successive periods of ten (10) years each, unless amended or extinguished by a written instrument executed by Members holding at least three-fourths (3/4) of the voting power of the Association and such written instrument is recorded with the Teton County Recorder.

Amendment.

### **Vote**. Except where a greater percentage is required by express provision in this Declaration, the provisions of this Declaration, other than this Article 13, any amendment shall be by an instrument in writing signed and acknowledged by the president and secretary of the Association certifying and attesting that such amendment has been approved by the vote or written consent of Owners representing more than fifty percent (50%) of the votes in the Association, and such amendment shall be effective upon its recordation with the Teton County Recorder. Any amendment to this Article 13 shall require the vote or written consent of Members holding ninety-five percent (95%) of the voting power of the Association.

### **Effect of Amendment**. Any amendment of this Declaration approved in the manner specified above shall be binding on and effective as to all Owners and their respective properties notwithstanding that such Owners may not have voted for or consented to such amendment. Such amendments may add to and increase the covenants, conditions, restrictions, and easements applicable to the Property but shall not prohibit or unreasonably interfere with the allowed uses of such Owner’s property which existed prior to the said amendment.

### **County Approval Require.** No amendment of this Declaration that relates to weed control, dark sky requirements, further lot splits, county regulations of any sort, the Right to Farm Act, or the authority of Eastern Idaho Public Health may be amended without the written consent of the County of Teton.

Notices

. Any notices permitted or required to be delivered as provided herein shall be in writing and it may be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered seventy-two (72) hours after the same has been deposited in the United States mail, postage prepaid, addressed to any person at the address given by such person if no address has been given to the Association. Such address may be changed from time to time by notice in writing to the Association, as provided in this paragraph 13.3.

Enforcement and Non-Waiver.

### **Right of Enforcement**. Except as otherwise provided herein, any Owner of any Building Lot shall have the right to enforce any or all of the provisions hereof against any property within the Property and Owners thereof.

### **Violations and Nuisances**. The failure of any Owner of a Building Lot to comply with any provision hereof, or with any provision of the Articles or Bylaws of any Association, is hereby declared a nuisance and will give rise to a cause of action in the Grantor, the Association or any Owner of Building Lot(s) within the Property for recovery of damages or for negative or affirmative injunctive relief or both. However, any other provision to the contrary notwithstanding, only Grantor, the Association, the Board, or a duly authorized agent of any of them, may enforce by self-help any of the provisions hereof only if such self-help is preceded by reasonable notice to the Owner.

### **Right to Farm**. Pursuant to Idaho Code §52-111 the Idaho legislature has recognized the importance of agriculture to the State of Idaho and has prohibited anyone from suing and making a claim for nuisance where a farmer is engaged in normal farming practice (no protection is given to the farmer who operates his farming activities in an improper or negligent fashion). Nothing in this Declaration shall be interpreted or construed to interfere with the right to farm under this law.

### **Violation of Law**. Any violation of any state, municipal, or local law, ordinance, or regulation pertaining to the ownership, occupation or use of any property within the Property is hereby declared to be a violation of this Declaration and subject to any or all of the enforcement procedures set forth in this Declaration and any or all enforcement procedures in law and equity.

### **Remedies Cumulative**. Each remedy provided herein is cumulative and not exclusive.

### **Non-Waiver**. The failure to enforce any of the provisions herein at any time shall not constitute a waiver of the right to enforce any such provision.

Interpretation

. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development and operation of the Property. This Declaration shall be construed and governed under the laws of the State of Idaho.

### **Restrictions Construed Together**. All of the provisions hereof shall be liberally construed together to promote and effectuate the fundamental concepts of the development of the Property as set forth in the recitals of this Declaration.

### **Restrictions Severable**. Notwithstanding the provisions of the foregoing paragraph 13.5.1, each of the provisions of this Declaration shall 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 herein.

### **Singular Includes Plural**. Unless the context requires a contrary construction, the singular shall include the plural and the plural singular, and the masculine, feminine, or neuter shall each include the masculine, feminine, and neuter.

### **Captions**. All captions and titles used in this Declaration are intended solely for convenience or reference and shall not affect that which is set forth in any of the provisions hereof.

Successors and Assigns

. All references herein to Grantor, Owners, any Association, or person shall be construed to include all successors, assigns, partners, and authorized agents of such Grantor, Owners, Association, or person.

[Signature Page Follows]

IN WITNESS WHEREOF, the Grantor has executed this Declaration effective as of the date first set forth above.

 Powder Day Development, LLC

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title: Manager

STATE OF \_\_\_\_\_\_\_\_ )

 ) ss.

County of \_\_\_\_\_\_\_\_\_ )

On this \_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, in the year of 2022, before me, \_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ a notary public, personally appeared \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, known or identified to me to be the manager of the limited liability company that executed the instrument or the person who executed the instrument on behalf of said limited liability company and acknowledged to me that such limited liability company executed the same.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

NOTARY PUBLIC

Residing at: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

My Commission Expires: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(SEAL)

EXHIBIT A

Legal Description of the Property

[use plat information and record following plat recordation]

|  |
| --- |
| **Summary report:** **Litera Compare for Word 11.5.0.74 Document comparison done on 12/7/2023 6:27:21 PM** |
| **Style name:** Default Style |
| **Intelligent Table Comparison:** Active |
| **Original DMS:** iw://cloudimanage.com/GPDMS/18088813/1 |
| **Description:** Peaked Mountain Ranch Declaration of Covenants.3.14.22.HH redline.draft |
| **Modified DMS:** iw://cloudimanage.com/GPDMS/18088813/4 |
| **Description:** Peaked Mountain Ranch Declaration of Covenants [12-7-23] |
| **Changes:**  |
| Add  | 182 |
| ~~Delete~~  | 187 |
| ~~Move From~~ | 0 |
| Move To | 0 |
| Table Insert | 0 |
| ~~Table Delete~~ | 0 |
| Table moves to | 0 |
| ~~Table moves from~~ | 0 |
| Embedded Graphics (Visio, ChemDraw, Images etc.) | 0 |
| Embedded Excel  | 0 |
| Format changes | 0 |
| **Total Changes:**  | 369 |