

FILED BY \_\_\_\_\_

Recording Requested By, and  
When Recorded Mail to:

Resort Development, Inc.  
218 Cedar Street  
Sandpoint, ID 83864

'90 JUN 18 AM 9 07  
LARKIN  
RECORDER OF BONNER  
COUNTY BY \_\_\_\_\_ DEP.

376609

DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS OF  
THE SCHWEITZER MOUNTAIN COMMUNITY  
AN EXPANDABLE PLANNED UNIT DEVELOPMENT  
BONNER COUNTY, IDAHO

TABLE OF CONTENTS

	RECITALS . . . . .	1
I	DEFINITIONS . . . . .	2
II	DESCRIPTION OF PROJECT, RIGHTS OF OWNERS, DECLARANT . . . . .	6
	2.1 Description of Project . . . . .	6
	2.2 Rights of Declarant . . . . .	16
	2.3 Utilities . . . . .	17
	2.4 Snow Removal and Storage . . . . .	18
III	USE RESTRICTIONS . . . . .	18
	3.1 Use of Individual Lots . . . . .	18
	3.2 Nuisances . . . . .	19
	3.3 Parking . . . . .	19
	3.4 Signs . . . . .	19
	3.5 Animals . . . . .	19
	3.6 Garbage and Refuse Disposal . . . . .	19
	3.7 Radio and Television Antennas . . . . .	20
	3.8 Lights, Sounds and Odors . . . . .	20
	3.9 Right to Lease, Rent . . . . .	20
	3.10 Power Equipment and Car Maintenance . . . . .	20
	3.11 Drainage . . . . .	20
	3.12 Mineral Exploration . . . . .	20
	3.13 Water Use . . . . .	21
	3.14 Maintenance Association Use Restrictions . . . . .	21
	<del>3.15 Fair Housing . . . . .</del>	<del>21</del>
	3.16 Compliance with Project Documents . . . . .	21
	3.17 Use of Common Areas by Public . . . . .	21
	3.18 Lock-Out . . . . .	21
IV	MASTER ASSOCIATION MEMBERSHIP AND VOTING . . . . .	22
	4.1 Master Association . . . . .	22
	4.2 Management of Project . . . . .	22
	4.3 Membership . . . . .	22
	4.4 Transferred Membership . . . . .	22
	4.5 Voting . . . . .	22
	4.6 Record Date . . . . .	22
	4.7 Commencement of Voting Rights . . . . .	23
	4.8 Special Majorities . . . . .	23
	4.9 Membership Meetings . . . . .	23
	4.10 Board of Directors . . . . .	23
V	MASTER ASSOCIATION POWERS, RIGHTS, DUTIES AND LIMITATIONS . . . . .	23
	5.1 Generally . . . . .	23

5.2	Enumerated Rights . . . . .	24
5.3	Enumerated Duties . . . . .	25
5.4	Enumerated Limitations . . . . .	30
VI	ASSESSMENTS . . . . .	31
6.1	Agreement to Pay Assessments and Individual Charges; Vacant Lot Exemption . . . . .	31
6.2	Purpose of Assessments . . . . .	31
6.3	Regular Assessments . . . . .	31
6.4	Special Assessments . . . . .	32
6.5	Civic Assessments . . . . .	32
6.6	Individual Charges . . . . .	33
6.7	Allocation of Regular and Special Assessments . . . . .	33
6.8	Commencement of Assessments and Individual Charges . . . . .	34
6.9	Personal Obligation for Assessments and Individual Charges . . . . .	34
VII	ENFORCEMENT OF RESTRICTIONS . . . . .	34
7.1	General . . . . .	34
7.2	Specific Enforcement Rights . . . . .	35
VIII	INSURANCE, DESTRUCTION, CONDEMNATION . . . . .	38
8.1	Insurance . . . . .	38
8.2	Destruction . . . . .	41
8.3	Condemnation . . . . .	42
IX	MORTGAGEE PROTECTIONS . . . . .	43
9.1	Mortgages Permitted . . . . .	43
9.2	Subordination . . . . .	43
9.3	Effect of Breach . . . . .	43
9.4	Incurable Breach . . . . .	43
9.5	Actions Requiring First Mortgagee Approval . . . . .	44
9.6	Right to Appear at Meetings . . . . .	44
9.7	Right to Furnish Information . . . . .	44
9.8	Right to Examine Books and Records, Etc . . . . .	44
9.9	Owners' Right to Ingress and Egress . . . . .	45
9.10	Notice of Intended Action . . . . .	45
9.11	First Mortgagee Assessment Liability . . . . .	45
9.12	Distribution; Insurance and Condemnation Proceeds . . . . .	45
9.13	Taxes . . . . .	45
9.14	Maintenance Reserves . . . . .	46
9.15	Notice of Default . . . . .	46
9.16	Management Contracts . . . . .	46
9.17	Conflicts . . . . .	46
X	ARCHITECTURAL CONTROL . . . . .	46

10.1	Approval of Alteration and Improvements . . . . .	46
10.2	Architectural Control Committee . . . . .	47
10.3	Architectural Standards; Guidelines . . . . .	48
10.4	Committee Approval Process . . . . .	49
10.5	Waiver . . . . .	51
10.6	Estoppel Certificate . . . . .	51
10.7	Liability . . . . .	52
XI	GENERAL PROVISIONS . . . . .	52
11.1	Notices . . . . .	52
11.2	Notice of Transfer . . . . .	52
11.3	Construction, Headings . . . . .	53
11.4	Severability . . . . .	53
11.5	Exhibits . . . . .	53
11.6	Easements Reserved and Granted . . . . .	53
11.7	Binding Effect . . . . .	53
11.8	Violations and Nuisance . . . . .	53
11.9	Violation of Law . . . . .	53
11.10	Singular Includes Plural . . . . .	53
11.11	Conflict of Project Documents . . . . .	53
11.12	Termination of Declaration . . . . .	53
XII	OPTION TO EXPAND . . . . .	54
12.1	Option to Expand . . . . .	54
12.2	Property Subject to Option . . . . .	54
12.3	Lots and Improvements . . . . .	54
12.4	Amendment of Lots . . . . .	55
12.5	Consent of Owners . . . . .	55
12.6	Ownership of Lots . . . . .	55
12.7	Consent of Fee Title Holder . . . . .	55
XIII	AMENDMENT . . . . .	56
13.1	Amendment by Declarant . . . . .	56
13.2	Amendment After First Sale . . . . .	56
13.3	Specific Provisions . . . . .	56
13.4	Amendment to Satisfy Other State Laws . . . . .	56
13.5	Amendment Instrument . . . . .	56

EXHIBIT A

EXHIBIT B

EXHIBIT C

DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS OF  
THE SCHWEITZER MOUNTAIN COMMUNITY  
A PLANNED UNIT DEVELOPMENT

RECITALS

This Declaration, made on the date hereinafter set forth by Resort Development, Inc., an Idaho corporation ("Declarant"), is made with reference to the following facts:

A. Declarant desires to develop that certain tract of land more particularly described on Exhibit "A" attached hereto located in Bonner County, Idaho (the "Property") as an expandable planned unit development (the "Project"). The owners of the Property and the Additional Land (collectively "Fee Title Holders") by their consents which are entered at the end of this Declaration, are willing to subject the Property (and if and when the required amendments are executed by them, the Additional Land [as herein defined]) to the terms and conditions of this Declaration, but shall have no liability under this Declaration and shall not be a "Declarant" as that term is used herein. The Project shall consist of all land described on Exhibit "A" attached hereto, together with such additional lands as may be added to the Project as provided in this Declaration, some of which are described on Exhibit "B" (collectively "Additional Land").

B. The Project possesses great natural beauty which Declarant intends to preserve through the use of a coordinated plan of development and the terms of this Declaration. It is anticipated that the plan will provide for comprehensive land planning, harmonious and appealing landscaping and improvements. It is assumed that each purchaser of property in the Project will be motivated to preserve these qualities through community cooperation and by complying with not only the letter but also the spirit of this Declaration. This Declaration is designed to complement local governmental regulations, and where conflicts occur, the more restrictive requirements shall prevail.

C. It is desirable for the efficient management and preservation of the value and appearance of the Project to create a nonprofit corporation to which shall be assigned the powers and delegated the duties of managing certain aspects of the Project; maintaining and administering the Common Areas; administering, collecting and disbursing funds pursuant to the provisions regarding assessments and charges hereinafter created and referred to; and to perform such other acts as shall generally benefit the Project and the Owners. Schweitzer Mountain Community Association,

a property owners' association and a nonprofit corporation, has or will be incorporated under the laws of the State of Idaho for the purpose of exercising the powers and functions aforesaid.

D. It is anticipated that certain lots created pursuant to this Declaration will be developed as condominium projects pursuant to the Idaho Condominium Property Act. The relationship between lots which are developed into separate condominium regimes and lots which are not so developed will be described hereinafter.

E. Each Owner shall receive an interest in his Lot or Unit (as those terms shall be hereinafter defined) and a Membership in the Maintenance Association appurtenant to his Lot or Unit.

F. By this Declaration, Declarant intends to establish a common scheme and plan for the possession, use, enjoyment, repair, maintenance, restoration and improvement of the Project and the interests therein conveyed and to establish thereon an expandable planned unit development.

NOW, THEREFORE, it is hereby declared that the Project shall be held, sold, conveyed, leased, rented, encumbered and used subject to the following Declaration as to division, easements, rights, assessments, liens, charges, covenants, servitudes, restrictions, limitations, conditions and uses to which the Project may be put, hereby specifying that such Declaration shall operate for the mutual benefit of all Owners of the Project and shall constitute covenants to run with the land and shall be binding on and for the benefit of Declarant, its successors and assigns, the ~~Master Association, its successors and assigns and all subsequent~~ Owners of all or any part of the Project, together with their grantees, successors, heirs, executors, administrators, devisees and assigns, for the benefit of the Project, and shall, further, be imposed upon all of the Project as a servitude in favor of each and every other Owner of any portion thereof as the dominant tenement.

## ARTICLE I

### DEFINITIONS

Unless the context clearly indicates otherwise, the following terms used in this Declaration are defined as follows:

1.1. "Act" shall mean the Idaho Condominium Property Act, Title 55, Chapter 15, Idaho Code Annotated.

1.2. "Architectural Control Committee" or "Committee" shall mean the committee created pursuant to Article X.

- .1..3. "Architectural Control Guidelines" or "Guidelines" shall mean the written review standards, if any, promulgated by the Architectural Control Committee as provided in Section 10.3.
- .1..4. "Articles" shall mean the Articles of Incorporation of the Master Association as amended from time to time.
- .1..5. "Assessments" shall mean the Regular and Special Assessments levied against each Lot or Unit and its Owner by the Master Association as provided in Article VI.
- .1..6. "Board" shall mean the Board of Directors of the Master Association.
- .1..7. "Bylaws" shall mean the Bylaws of the Master Association as amended from time to time.
- .1..8. "Condominium", "Condominium Unit", "Condominium Record of Survey Map" and "Condominium Project" shall mean as those terms are defined in the Act.
- .1..9. "Condominium Dwelling" shall mean a structure containing two or more Condominium Units, constituting all or a portion of a residential or commercial Condominium Project.
- .1..10. "Common Areas" shall mean (i) the property designated as common area on the Map; (ii) any portion of the Project which is owned by the Master Association for the use and benefit of the Members; (iii) any leases, easements, or other rights over Project property which are owned by the Master Association for the use and benefit of the Members, and (iv) ~~any portion of the Project which is owned by the Members as tenants-in-common but which is maintained by the Master Association for the use and benefit of the Members.~~ The Declarant in its discretion may add additional Common Areas to the Property.
- .1..11. "Declarant" shall mean Resort Development, Inc., an Idaho corporation or any successor-in-interest by merger or by express assignment of the rights of Declarant hereunder by an instrument executed by Declarant and recorded in the Bonner County records and filed with the secretary of the Master Association. The term "Declarant" shall not include those owners of the Property or the Additional Land consenting to the recording of this Declaration.
- .1..12. "Declaration" shall mean this instrument as amended from time to time.
- .1..13. "Developer" shall mean and include Declarant, and any third party to whom Declarant may convey a Lot for purposes of constructing improvements thereon.

1.21. "Master Association" shall mean the Schweitzer Mountain Community Association, an Idaho nonprofit corporation, the members of which shall be the Declarant and each of the Maintenance Associations organized within the Project.

1.22. "Member" shall mean a person or entity entitled to membership in the Master Association as provided herein.

1.23. "Mortgage" shall mean a mortgage or deed of trust encumbering a Lot or Unit or other portion of the Project. A "Mortgagee" shall include the beneficiary under a deed of trust. A "First Mortgage" or "First Mortgagee" is one having priority as to all other Mortgages or holders of Mortgages encumbering the same Lot or Unit or other portion of the Project. A "First Mortgagee" shall include any holder, insurer or guarantor of a First Mortgage on any Lot or Unit or other portion of the Project. Any and all Mortgagee protections contained in the Project Documents shall also protect Declarant as the holder of a Mortgage or other security interest in any Lot or Unit in the Project.

1.24. "Owner" shall mean the person or entity holding a record fee simple ownership interest in a Lot or Unit or in Additional Land, including Declarant, as well as vendees under installment purchase contracts. "Owner" shall not include persons or entities who hold an interest in a Lot or Unit merely as security for the performance of an obligation. "Owner" shall include the record Owner or contract vendee of each Lot or Unit.

1.25. "Permit" shall mean the permit, if any, issued by the California Department of Real Estate or any successor state agency pursuant to the California Out-of-State Land Promotions Law (Business and Professions Code Section 10249 et seq.) as it may be amended from time to time. The Declarant may, but shall not be obligated to, sell Lots or Units in the Project to purchasers in California. References in the Project Documents to a Permit shall not be construed as a representation by Declarant that such a Permit has been applied for, will be applied for, has been issued or will be issued for the Project but such references are included for the sole purpose of assisting the Declarant in qualifying the Project for a Permit when and if it chooses to do so. Where any right contained in the Project Documents is limited by an event which is defined in relation to the issuance of a Permit, and no such Permit has been issued, such limiting event shall be deemed to have not yet occurred and such right shall continue to exist unlimited by such event.

1.26. "Project" shall mean the real property and improvements located in Bonner County, Idaho, and more particularly described on Exhibit "A," together with the Additional Land which may hereafter be added to the Project in accordance with Article XII, from which Declarant may, at its option, create other Lots, and all of the improvements thereon.



1.27. "Project Documents" shall mean the Articles, Bylaws, Declaration, Rules and Regulations of the Master Association, and the Architectural Control Guidelines.

1.28. "Rules and Regulations" shall mean the rules and regulations promulgated by the Master Association to further govern the possession, use and enjoyment of the Project, as amended from time to time.

1.29. "Share" or "Allotment" shall mean the portion of the Assessments allocated to a Unit and its Owner pursuant to Section 2.1.3 and Article VI.

1.30. "Structure" shall mean any tangible thing or device to be fixed permanently or temporarily to real property including, but not limited to, any Dwelling, as defined herein, building, garage, driveway, walkway, concrete pad, asphalt pad, gravel pad, porch, patio, shed, greenhouse, bathhouse, tennis court, pool, stable, fence, wall, pole, sign, antennae or tent.

1.31. "Unit" shall mean each Condominium Unit in the Project, each separate dwelling in a townhouse, apartment or in any planned unit development other than the Project and each single family residence developed on a subdivided parcel as a free-standing, separate dwelling not included in a condominium regime, as well as such Unit or other Structure on the Project used for commercial purposes, with each separately demised commercial space deemed to constitute a separate unit, whether or not more than one such commercial space is located in the same Structure, and where otherwise consistent with this Declaration, the inferred Unit as provided for under Section 2.1.3(p).

## ARTICLE II

### DESCRIPTION OF PROJECT; RIGHTS OF OWNERS, DECLARANT

#### 2.1. Description of Project.

2.1.1. Project. The Project shall consist of all of the real property described in attached Exhibit "A", together with the Additional Land described on Exhibit "B" which may hereafter be added to the Project in accordance with Article XII, from which Declarant may, at its option, create other Lots, and all of the improvements thereon. This Declaration shall be an encumbrance only on the real property described in Exhibit "A", as the same may be amended by Declarant by addition of a portion or all of the Additional Land described on Exhibit "B", or any other land, as further provided in Article XII.

2.1.2. Lots. The Project shall consist of an unlimited number of Lots, each of which is to be improved with one or more Structures. Declarant reserves the right to increase or decrease the number of Lots in order to facilitate proper planning in the discretion of the Declarant. Declarant further reserves the right to create on one or more Lots one or more Condominium Projects, pursuant to the provisions of the Act. Declarant shall also have the right to sell, convey, transfer, assign or otherwise dispose of any Lot, or parcel which has not been divided into Lots, without first constructing a Structure thereon. Any purchaser, transferee or Owner of a vacant Lot shall be entitled to construct a Structure or Structures thereon, subject to the approval and supervision of Declarant as set forth in Section 2.2.2 and the Architectural Control Guidelines and the architectural standards and guidelines set forth in Section 10.3.

2.1.3. Units and Allotments. Except as otherwise provided in this Article II, there shall be deemed to exist, from the date of substantial completion of any Structure on a Lot and until the date such Structure ceases to exist, a number of Units with appurtenant Allotments, expressed in terms of Shares per Unit, with respect to the Lot, based on space within the Structure, which space is designed for lodging, residential, living or sleeping purposes, or allowable commercial uses, as follows (as used herein, "divisible space" means space which can be separately occupied and rented within a Unit):

(a) Hotel Room. A Hotel Room shall mean lodging, residential, living or sleeping space which consists of a living-sleeping room which can accommodate up to two (2) double beds and bathroom and which does not include any kitchen or housekeeping facilities of whatever nature. Each Hotel Room shall be allotted one (1) Share of the Assessments.

(b) Studio. A Studio shall mean lodging, residential, living or sleeping space which consists of a living-sleeping room which can accommodate two (2) double beds, and a bathroom and some type of kitchen facilities, and which consists of a single divisible space and does not exceed 500 square feet of gross area. Each Studio shall be allotted one (1) Share of the Assessments.

(c) One Bedroom. A One (1) Bedroom shall mean lodging, residential, living or sleeping space which consists of a bedroom, a living room which can accommodate two (2) double beds for sleeping, and a bathroom and some type of kitchen facilities, and which consists of a single divisible space and does not exceed 700 square feet of gross area. Each One (1) Bedroom shall be allotted one and one-half (1-1/2) Shares of the Assessments.

(d) One Bedroom Double. A One (1) Bedroom Double shall mean a One (1) Bedroom which also has a second bathroom and consists of two (2) divisible spaces and which may exceed 700 square feet of gross area to the extent necessary to accommodate the additional facilities and to permit the bedroom to accommodate up to two (2) double beds. Each One (1) Bedroom Double shall be allotted two (2) Shares of the Assessments.

(e) Two Bedroom. A Two (2) Bedroom, shall mean lodging, residential, living or sleeping space which consists of two (2) bedrooms, a living room which can accommodate two (2) double beds for sleeping, and two (2) bathrooms and some type of kitchen facilities, and which consists of a single divisible space and does not exceed 960 square feet of gross area. Each Two (2) Bedroom shall be allotted two (2) Shares of the Assessments.

(f) Two Bedroom Double. A Two (2) Bedroom Double shall mean a Two (2) Bedroom which consists of two (2) divisible spaces and which may exceed 960 square feet of gross area to the extent necessary to permit one (1) bedroom, to accommodate up to two (2) double beds. Each Two (2) Bedroom Double shall be allotted two and one-half (2-1/2) Shares of the Assessments.

(g) Two Bedroom Triple. A Two (2) Bedroom Triple shall mean a Two (2) Bedroom which also has a second and third bathroom and consists of three (3) divisible spaces and which may exceed 960 square feet of gross area to the extent necessary to accommodate the additional facilities and to permit each bedroom to accommodate up to two (2) double beds. Each Two (2) Bedroom Triple shall be allotted three (3) Shares of the Assessments.

(h) Three Bedroom. A Three (3) Bedroom shall mean lodging, residential, living or sleeping space which consists of three (3) bedrooms, a living room which can accommodate two (2) double beds for sleeping, and two (2) bathrooms and some type of kitchen facilities, and which consists of a single divisible space and does not exceed 1,200 square feet of gross area. Each Three (3) Bedroom shall be allotted two and one-half (2-1/2) Shares of the Assessments.

(i) Three Bedroom Double. A Three (3) Bedroom Double shall mean a Three (3) Bedroom which also has a third bathroom and consists of two (2) divisible spaces and which may exceed 1,200 square feet of gross area to the extent necessary to accommodate the additional facilities and to permit one (1) bedroom to accommodate up to two (2) double beds. Each Three (3) Bedroom Double shall be allotted three (3) Shares of the Assessments.

(j) Three Bedroom Triple. A Three (3) Bedroom Triple shall mean a Three (3) Bedroom which also has a third bathroom and consists of three (3) divisible spaces and which may exceed 1,200 square feet of gross area to the extent necessary to accommodate the additional facilities and to permit two (2) bedrooms to accommodate up to two (2) double beds each. Each Three (3) Bedroom Triple shall be allotted three and one-half (3-1/2) Shares of the Assessments.

(k) Three Bedroom Quadruple. A Three (3) Bedroom Quadruple shall mean a Three (3) Bedroom, which also has a third and fourth bathroom and consists of four (4) divisible spaces and which may exceed 1,200 square feet of gross area to the extent necessary to accommodate the additional facilities and to permit each bedroom to accommodate up to two (2) double beds. Each Three (3) Bedroom Quadruple shall be allotted four (4) Shares of the Assessments.

(l) Other. Any other space within a Structure, which space is designed for lodging, residential, living or sleeping purposes and which is not within one of the foregoing categories, shall be allotted one-half (1/2) Share for each 150 square feet of gross floor area of such space, including bathroom or kitchen space, the total gross area of all such space on any Lot to be rounded to the nearest 150 square feet.

(m) Shares For Supporting Space in Lodging Facilities. No Shares shall be deemed to exist with respect to a Lot for space occupied by lobbies, halls, service areas, porches, patios, garages, recreational facilities, saunas or similar facilities, which space is designed to be incidental to use of lodging, residential living or sleeping space and which space is within or adjoining a structure containing space designed for lodging, residential, living or sleeping purposes, except that, if a separate or special charge is made for use of facilities on or in any portion of such space or any portion of such space is used for selling of goods or services or for other business or commercial purposes, other than in connection with renting of rooms, for or during the equivalent of five (5) or more full business days in any twelve (12) month period, Shares shall be allotted in accordance with the provisions of this Declaration for that portion of such space.

(n) Shares for Employee Quarters in Lodging Facilities. No Shares shall be allotted with respect to a Lot for space used for lodging of employees of a lodge, hotel or similar facility for the accommodation of transient guests which space is within such lodge, hotel or similar facility, except that, if a charge is made for use of any portion of such space by such employee or any portion of such space is used for

lodging, residential, living or sleeping purposes by any person other than an employee or is rented or let or is used for selling of goods or services or for other business or commercial purposes, for or during the equivalent of five (5) or more full business days in any twelve (12) month period, Shares shall be allotted in accordance with the provisions of this Declaration for that portion of such space.

(o) Number of Units and Shares - "Indoor Commercial Space". Except as otherwise provided in this Article II, there shall be deemed to exist, from the date of substantial completion of any Structure on a Lot and until the Structure ceases to exist, a number of Units with respect to the Lot, based on non-lodging, indoor commercial space ("Indoor Commercial Space") as provided hereinafter in this Section. Each 150 square feet of gross area of Commercial Space shall be allotted one-half (1/2) Share, the total gross area of all Commercial Space on any Site to be rounded to the nearest 150 square feet; provided that until there exists 30,000 square feet of gross area of Indoor Commercial Space in the Project, there shall be allotted one-half (1/2) Share for each 300 square feet of gross area of Indoor Commercial Space; provided further, that if a Structure containing Indoor Commercial Space exceeds 3,000 square feet of gross area, there shall be allotted one-half (1/2) Share for each 300 square feet above 3,000 square feet in such Structure both before and after there exists 30,000 square feet of gross area of Indoor Commercial Space in the Project.

(p) Number of Units and Shares - Outdoor Commercial Space. ~~Except as otherwise provided in this Article II, there shall be deemed to exist a number of Units with respect to a Lot for non-lodging outdoor commercial space ("Outdoor Commercial Space") as provided hereinafter in this Section.~~ Each 450 square feet of gross area of Outdoor Commercial Space shall equal one-half (1/2) of a Unit, the total gross area of all Outdoor Commercial Space on any Lot to be rounded to the nearest 450 square feet; provided, that if there exists over 4,800 square feet of gross area of Outdoor Commercial Space and Indoor Commercial Space, all in the same Structure on the Lot, each 1,800 square feet of gross area of Outdoor Commercial Space in any such Structure, shall equal one-half (1/2) of a Unit, the total gross area of all Outdoor Commercial Space in excess of said 4,800 square feet in such Structure to be rounded to the nearest 1,800 square feet. Said Units shall be deemed to exist on the date of substantial completion of the improvements comprising the Outdoor Commercial Space.

(q) Minimum of One Unit for a Lot. Each Lot which would, under this Article II, be deemed to consist of less than one (1) Unit or to which the provisions of foregoing

Sections are not, for any reason, applicable shall be deemed to consist of one (1) Unit and shall be allocated one (1) Share of the Assessments.

(r) Information by Owners as to Lots and Units. At the time a Lot is improved with a Structure, the Owner shall give written notice of this fact to the Association, which notice shall, in addition: give the legal description of the Lot; state the name and form of ownership by which Fee Simple Title to the Lot is held; give a single name and address to which notices to the Owner may be sent; give the names and addresses and the nature of the interest of all persons or entities having any right, title or interest in the Lot, including mortgagees and lessees; state the total number of Units existing on the Lot at that time; state the types of Units and the number of each type existing on the Lot at that time. In the event of any change in the facts reported in the original written notice for a Lot, including any change of ownership, the Owner of the Lot shall give a new written notice to the Association containing all the information required to be covered by the original notice. As against any Owner, and any party claiming by, through, or under such Owner, the Association may, but shall not be obligated to, rely, for any and all purposes, on the information reflected in the most recent written notice furnished with respect to the Lot of such Owner. The Association shall keep and preserve the most recent written notice received by the Association with respect to any Lot.

(s) Association Determination as to Units and Shares.  
The Association, based upon written notices furnished by Owners as aforesaid and based upon its own investigation as to substantial completion of a Structure on a Lot, shall have the right, authority and obligation to fix and determine the number of Units existing with respect to each Lot and the types of Units and to allocate the number of Shares in a Unit. If an Owner fails to furnish the notice required under subsection (q) above, the Association's determination hereunder shall be conclusive. The Association shall make such determination at least annually and shall make supplemental determinations from time to time as may be necessary in the light of changes which may come to its attention. The Association shall keep records of its determinations hereunder which shall be used and may be relied upon for any and all purposes under this Declaration. The Association shall furnish to any Owner or interested party, upon written request, information with respect to the number and types of Units existing with respect to any Lot within the Project and the Shares allocated to each Unit as reflected in its records. An interested person shall include any Owner or, with the written authorization of an Owner, any actual or proposed

purchaser, mortgagee, lessee or other person having or proposing to acquire any right, title or interest in a Unit.

2.1.4. Maintenance Association. It is expected that several Maintenance Associations will be organized in the Project. Each Lot and each Unit in the Project shall be included in a Maintenance Association (commonly referred to as a homeowners' or unit owners' association) created for the purpose of operating, maintaining and governing the use of the Improvements and the common areas and facilities constructed or naturally existing on the Lot(s) included in each Maintenance Association. Each Maintenance Association shall assess and collect fees from its members, in accordance with the provisions of its governing instruments, to cover the cost of its activities and responsibilities. It is anticipated that each Condominium Project shall establish its own Maintenance Association, although there may be one or more Condominium Dwellings in any Condominium Project. A Maintenance Association may be limited to a single Lot and the Improvements thereto, if any, or may be comprised of two or more Lots and the Improvements thereto, if any, at the discretion of the Owner(s) of such Lots, and pursuant to the provisions of Idaho law.

2.1.5. Density. The Project is presently zoned for the construction of a maximum of 7228 Units (on both the land described on Exhibit "A" and the Additional Land described on Exhibit "B"). Declarant shall have the right to allocate the specific number of Units to be constructed on each Lot at the time such Lot is conveyed by Declarant to any third party (or such earlier date as Declarant may desire). Attached Exhibit "C" shall set forth the allocation of Units to be constructed on each Lot in the Project. ~~On or before the sale of any Lot in the Project by Declarant, Exhibit "C" shall be amended, if necessary, to specify the maximum number of Units to be constructed on such Lot. After any Lot has been sold by Declarant to a third party, Exhibit "C" can only be amended with respect to such Lot with the approval of the owner thereof and Declarant. Lot and Unit owners shall execute such documents as are necessary to carry out the provisions of this Section 2.1.5, including, but not limited to, amendments hereto, affidavits, consents, etc.~~

2.1.6. The Master Association. The Master Association shall maintain the Common areas and all improvements thereon, in a safe, sanitary and attractive condition. Such maintenance responsibility shall include, but shall not be limited to, the control of all weeds and other unsightly vegetation, rubbish, trash, garbage and landscaping visible from other portions of the Project. The Master Association shall assess and collect fees from the Members, in accordance with the provisions hereof. No Common Areas shall be used or operated by the Master Association or by any other person or entity for commercial use, profit or gain without the written consent of Declarant and no charges shall be imposed

by the Association for use of any Common Areas except for recreational facilities covered by Section 5.2.5 hereof.

2.1.7. Common Areas. The Common Areas shall consist of (i) the property designated as common areas on the Map, (ii) all real property and improvements thereto within the Project, which are owned and maintained by the Master Association for the use and benefit of the Members, including any roads which are not situated entirely on any single Lot, (iii) any leases, easements, or other rights over Project property which are owned by the Master Association for the use and benefit of the Members, and (iv) any portion of the Project which is owned by the Members as tenants-in-common but which is maintained by the Master Association for the use and benefit of the Members.

2.1.8. Incidents of Lot Ownership, Inseparability. Every Lot shall have appurtenant to it the following interests:

(a) a number of Memberships in the Master Association equal to the number of Shares allocated to Units on the Lot, and

(b) a nonexclusive easement for use, enjoyment, ingress and egress over the Common Areas subject to such restrictions and limitations as are contained in the Project Documents and subject to other reasonable regulation by the Master Association.

Such interests shall be appurtenant to and inseparable from ownership of the Lot or Unit. Any sale, conveyance, hypothecation, encumbrance or other transfer of a Lot or Unit shall automatically transfer these interests to the same extent, notwithstanding any term or provision to the contrary in the documents effecting such transfer.

2.1.9. Owner's Obligation to Maintain Lot. Except where such duties have been delegated to a Maintenance Association, each Owner shall maintain his Lot or Unit, and all Improvements thereon, in a safe, sanitary and attractive condition. In the event that an Owner fails to maintain his Lot or Unit as provided herein in a manner which the Board reasonably deems necessary to preserve the appearance and/or value of the Project, the Board may notify the Owner of the work required and demand that it be done within a reasonable and specified period. In the event that the Owner fails to carry out such maintenance within said period, the Board shall, subject to the notice and hearing requirements of Section 7.2.1.2 have the right to enter upon the Lot or Unit to cause such work to be done and individually charge the cost thereof to such Owner. Notwithstanding the foregoing, in the event of an emergency arising out of the failure of an Owner to maintain his Lot or Unit, the Board shall have the right to immediately enter upon the Lot or



Unit to abate the emergency and individually charge the cost thereof to such Owner.

2.1.10. Maintenance Association's Obligation to Maintain. The Maintenance Associations shall be responsible for the maintenance of a certain Lot or Lots in the Project pursuant to a recorded declaration of covenants, conditions and restrictions with respect to such Lot or Lots.

The Master Association will be responsible for maintaining (including snow removal), repairing and replacing of all of the private roads in the Project, including the sole access road to the Project (but only to the extent not maintained by Bonner County), but shall assess each Maintenance Association for its share of the cost of such maintenance, repair and replacement as follows: Each of the Maintenance Associations having responsibility for a condominium or planned unit development shall individually bear the expense of maintaining the road(s) located in the area included in each such condominium or planned unit development. The cost of maintaining, repairing and replacing all other private roads in the Project shall be a common expense of the Project. In the event that the maintenance expenses for a particular road are to be paid by more than one Maintenance Association as set forth above, such expenses shall be allocated between the Maintenance Associations to be charged based on the number of Shares in each of such Maintenance Associations.

Each Maintenance Association shall maintain, repair and replace its area of responsibility and all Improvements thereon, in a safe, sanitary and attractive condition. Such maintenance responsibility shall include, but shall not be limited to, the control of rubbish, trash, garbage and landscaping visible from other portions of the Project. In the event that a Maintenance Association fails to maintain its area of responsibility as provided herein in a manner which the Board reasonably deems necessary to preserve the appearance and/or value of the Project, the Board shall notify the Maintenance Association of the work required and demand that it be done within a reasonable and specified period. In the event that the Maintenance Association fails to carry out such maintenance within said period, the Board shall, subject to the notice and hearing requirements of Section 7.2.1.2, have the right to enter upon said area of responsibility to cause such work to be done and individually charge the cost thereof to such Maintenance Association. Notwithstanding the foregoing, in the event of an emergency arising out of the failure of a Maintenance Association to maintain its area of responsibility, the Board shall have the right to immediately enter upon said area of responsibility to abate the emergency and individually charge the cost thereof to such Maintenance Association.

2.1.11. Delegation of Use; Lessees; Tenants. Any Owner may temporarily delegate his rights of use and enjoyment in the Project to the members of his family, his guests, and invitees, and to such other persons as may be permitted by the Project Documents, subject, however, to the Project Documents. However, if an Owner of a Lot or Unit has sold his Lot or Unit to a contract purchaser or leased or rented his Lot or Unit, the Owner, members of his family, his guests and invitees shall not be entitled to use or enjoy the Project while such contract of sale or such lease is in force. Instead, the contract purchaser, lessee or tenant, while such contract of sale or lease remains in force, shall be entitled to use and enjoy the Project and may delegate the rights of use and enjoyment in the same manner as if such contract purchaser or lessee or tenant were an Owner during the period of his occupancy. Each Owner shall notify the secretary of the Master Association of the names of any contract purchasers, lessees or tenants of such Owner's Lot or Unit. Each Owner, contract purchaser, lessee or tenant also shall notify the secretary of the Master Association of the names of all persons to whom such Owner, contract purchaser, lessee or tenant has delegated any rights of use or enjoyment in the Project and the relationship that each such person bears to the Owner, contract purchaser, lessee or tenant. All persons to whom rights of use and enjoyment of the Project have been delegated shall be subject to the terms and provisions of this Declaration, and such rights are subject to suspension to the same extent as the rights of Owners.

2.1.12. Encroachment Easements. Each Owner is hereby declared to have an easement appurtenant to his Lot, over all adjoining Lots and the Common Areas for the purpose of accommodating the encroachment due to minor and professionally acceptable errors in engineering, original construction, settlement or shifting of a building, or any other cause. The Master Association is hereby declared to have an easement appurtenant to the Common Areas over all adjoining Lots for the purpose of accommodating any Common Areas encroachment due to minor and professionally acceptable errors in engineering, original construction, settlement, or shifting of a building or any other cause. There shall be valid easements for the maintenance of said encroachments as long as they shall exist, and the rights and obligations of Owners shall not be altered in any way by said encroachments, settlement or shifting; provided, however, that in no event shall a valid easement for encroachment be created in favor of an Owner or Owners if said encroachment occurred due to the willful misconduct of said Owner or Owners. In the event a structure is partially or totally destroyed, and then repaired or rebuilt, the Owners of each Lot agree that minor encroachments over adjoining Lots or Common Areas or by Common Areas over Lots shall be permitted and that there shall be a valid easement for the maintenance of such encroachments so long as they shall exist.

