

# DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS

for the

## ASPEN STAND TOWNHOMES ADDITION TO THE TOWN OF JACKSON

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Covenants, Conditions and Restrictions  
for the  
Aspen Stand Townhomes Addition to the Town of Jackson

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# Declaration of Covenants, Conditions, and Restrictions

for

## Aspen Stand Townhomes Addition to the Town of Jackson

This DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS is made this 1<sup>st</sup> day of May, 2007, by King Shadows, Inc., a Wyoming corporation (individually and collectively, the "Founder").

### PART ONE: INTRODUCTION TO THE COMMUNITY

*Founder, as the developer of the Aspen Stand Townhomes Addition to the Town of Jackson has established this Declaration to provide a governance structure and a flexible system of standards and procedures for the overall development, administration, maintenance and preservation of the Aspen Stand Townhomes Addition to the Town of Jackson.*

### ARTICLE I – CREATION OF THE COMMUNITY

**1.1 Purpose and Intent.** The Founder, as the owner of the real property described on **Exhibit A** attached hereto and made a part hereof by this reference intends by the recording of this Declaration to create a general plan of development for the residential townhomes known as the Aspen Stand Townhomes Addition to the Town of Jackson. This Declaration provides for the overall development, administration, maintenance and preservation of the real property now or hereafter comprising the Aspen Stand Townhomes Addition to the Town of Jackson. An integral part of the development plan is the creation of the Aspen Stand Townhomes Homeowners Association, an association comprised of all owners of the Aspen Stand Townhomes Addition to the Town of Jackson, to own, operate and/or maintain various common areas and community improvements and to administer and enforce this Declaration and the other Governing Documents referred to in this Declaration.

**1.2 Binding Effect.** All property described on **Exhibit A** hereto and any additional property that is made a part of the Aspen Stand Townhomes Addition to the Town of Jackson in the future by filing one or more Supplemental Declarations in the Public Records, shall be owned, conveyed and used subject to all of the provisions of this Declaration, which shall run with the title to such property. This Declaration shall be binding upon all Persons having any right, title or interest in any portion of the Properties, their heirs, successors, successors-in-title, and assigns.

This Declaration shall be enforceable in perpetuity by the Founder, the Association, any Owner, and their respective legal representatives, heirs, successors, and assigns.

**1.3 Governing Documents.** The Governing Documents create a general plan of development for the Aspen Stand Townhomes Addition to the Town of Jackson that may be

supplemented as set forth herein. In the event of a conflict between or among the Governing Documents and any such additional covenants or restrictions, the Governing Documents shall control. Nothing in this Section shall preclude any Supplemental Declaration or other recorded covenants applicable to any portion of the Properties from containing additional restrictions or provisions that are more restrictive than the provisions of this Declaration. The Association may, but shall not be required to, enforce any such covenants, restrictions or other instruments.

All provisions of the Governing Documents shall apply to all Owners as well as their respective family members, tenants, guests and invitees.

If any provision of this Declaration is determined by judgment or court order to be invalid, or invalid as applied in a particular instance, such determination shall not affect the validity of other provisions or applications.

## ARTICLE II – DEFINITIONS

The terms used in the Governing Documents shall generally be given their natural, commonly accepted definitions unless otherwise specified. Capitalized terms shall be defined as set forth below.

**2.1 Architectural Review Committee or ARC.** The Architectural Review Committee as defined in Section 4.2.

**2.2 Association.** The Aspen Stand Townhomes Homeowners Association, a Wyoming nonprofit corporation, its successors or assigns. The “Articles” shall refer to those Articles of Incorporation of the Association, as they may be amended from time to time. The “Bylaws” shall refer to those Bylaws adopted by the Association, as they may be amended from time to time.

**2.3 Base Assessment.** Assessments levied on all Lots subject to assessment under Article VIII to fund Common Expenses, as determined in accordance with Section 8.1.

**2.4 Board of Directors or Board.** The body responsible to the Members for operations of the Association, selected as provided in the Bylaws and generally serving the same role as a board of directors under Wyoming corporate law. The Board of Directors may also be referred to as the “Board”.

**2.5 Common Area.** All real and personal property, including easements for access and utilities, which the Association owns, leases or in which it otherwise holds, or acquires in the future, possessory or use rights for the common use and enjoyment of the Owners.

**2.6 Common Expenses.** The actual and estimated expenses incurred, or anticipated to be incurred, by the Association for the general benefit of the Lots including any reasonable reserve, as the Board may find necessary and appropriate pursuant to the Governing Documents

**2.7 Community-Wide Standard.** The standard of conduct, maintenance, or other activity generally prevailing throughout the Properties. Such standard shall be established initially by the Founder and may be more specifically defined in the Design Guidelines, the Master Rules and Regulations, and in Board resolutions.

**2.8 Covenant to Share Costs.** Any Declaration of Easements and Covenant to Share Costs to be executed by Founder and recorded in the Public Records which creates certain easements for the benefit of the Association and the present and future owners of the real property subject to such Covenant to Share Costs and which obligates the Association and such owners to share the costs of maintaining certain property described in such Covenant to Share Costs.

**2.9 Design Guidelines.** The architectural, design and construction guidelines and review procedures adopted pursuant to Article IV, as they may be amended.

**2.10 Founder.** Aspen Stand, LLC, a Wyoming limited liability company.

**2.11 Governing Documents.** A collective term referring to this Declaration and any applicable Supplemental Declaration, the Bylaws, the Articles, the Design Guidelines, and the Master Rules and Regulations, if any, and as they may be amended.

**2.12 Limited Common Expense.** A Common Expense that does not benefit all Lots, such as those expenses incurred with respect to the Limited Common Elements.

**2.13 Limited Common Element.** Those areas for the exclusive use of a Lot, as may be described herein and as shown on the Plat. Limited Common Elements may also be referred to on the Plat as Parking Limited Common Element P-(Lot #) and Deck Limited Common Element D-(Lot #).

**2.14 Lot.** Shall be any single family residential Lot as shown on the Plat within the Properties described on **Exhibit A**, attached hereto, along with any other properties annexed into the Association pursuant to a Supplemental Declaration and defined as "Lots" in such Supplemental Declaration. Such Lots shall be referred to collectively as "Lots".

**2.15 Master Rules and Regulations.** The Master Rules and Regulations are the Rules and Regulations adopted by the Board, if any, pursuant to Section 3.2 hereof.

**2.16 Member.** A Person subject to membership in the Association pursuant to Section 6.2.

**2.17 Mortgage.** A mortgage, a deed to secure debt, or any other form of security instrument affecting title to any Lot or all or any portion of the Properties. "Mortgagee" shall refer to a beneficiary of a deed of trust or holder of a Mortgage.

2.18 **Owner or Owners.** One or more Persons who hold the record title to any Lot or Lots, but excluding in all cases any party holding an interest merely as security for the performance of an obligation. If a Lot is sold under a recorded contract of sale, and the contract specifically so provides, the purchaser (rather than the fee owner) will be considered the Owner

2.19 **Person.** A natural person, a corporation, a partnership, a trustee, or any other legal entity.

2.20 **Plat.** That subdivision plat map of the real property recorded in the Public Records contemporaneously with this Declaration.

2.21 **Properties.** The real property comprised of the Lots and described on **Exhibit A** attached hereto and incorporated herein by this reference and any additional property that is made a part of the Aspen Stand Townhomes Addition to the Town of Jackson in the future by filing one or more Supplemental Declarations in the Public Records.

2.22 **Public Records.** The official records of the Clerk of Teton County, Wyoming

2.23 **Special Assessment.** Assessments levied in accordance with Section 8.3.

2.24 **Specific Assessment.** Assessments levied in accordance with Section 8.4.

2.25 **Structure or Structures.** An authorized structure or structures pursuant to Article IV.

2.25 **Supplemental Declaration.** An instrument filed in the Public Records pursuant to Article XII that imposes, expressly or by reference, additional restrictions and obligations on the land described in such instrument.

## **PART TWO: CREATION AND MAINTENANCE OF COMMUNITY STANDARDS**

### **ARTICLE III – USE AND CONDUCT**

3.1 **Framework for Regulation.** The Governing Documents establish, as part of the general plan of development for the Properties, a framework of affirmative and negative covenants, easements and restrictions which govern the Properties. However, within that framework, the Board and the Members must have the ability to respond to unforeseen problems and changes in circumstances, conditions, needs, desires, trends and technology that inevitably will affect the Aspen Stand Townhomes Addition to the Town of Jackson, its Owners and residents. Toward that end, this Article establishes procedures for modifying and expanding the initial Master Rules and Regulations.

3.2 **Rule Making Authority.**



(a) Subject to the terms of this Article and the Board's duty to exercise business judgment and reasonableness on behalf of the Association and its Members, the Board may modify, cancel, limit, create exceptions to, or expand the Master Rules and Regulations. The Board shall send notice by mail to all Owners concerning any such proposed action as least five (5) business days prior to the Board meeting at which time such action is to be considered. Members shall have a reasonable opportunity to be heard at a Board meeting prior to such action being taken.

Such action shall become effective after compliance with Section 3.2(c) below unless disapproved at a meeting of the Members by more than fifty percent (50%) of the total votes entitled to vote on the matter. The Board shall have no obligation to call a meeting of the Members to consider disapproval except upon receipt of a petition of the Members as required for special meetings in the Bylaws. Upon such petition of the Members prior to the effective date of any Board action under this Section 3.2(a), the proposed action shall not become effective until after such meeting is held, and then is subject to the outcome of such meeting.

(b) Alternatively, the Members, at an Association meeting duly called for such purpose, may adopt rules which modify, cancel, limit, create exceptions to, or expand the Master Rules and Regulations by a vote of more than fifty percent (50%) of the total votes entitled to vote on the matter pursuant to the Bylaws of the Association.

(c) At least thirty (30) days prior to the effective date of any action taken under subsections (a) or (b) of this Section, the Board shall send a copy of the new rule or explanation of any changes to the Master Rules and Regulations to each Owner specifying the effective date. The Association shall provide, at no additional charge, a copy of the Master Rules and Regulations then in effect to any requesting Member or Mortgagee.

**3.3 Owners' Acknowledgment and Notice to Purchasers.** All Owners are given notice that use of their Lot is limited by the Master Rules and Regulations as they may be amended, expanded and otherwise modified hereunder. Each Owner, by acceptance of a deed for their Lot, acknowledges and agrees that the use and enjoyment and marketability of his or her Lot can be affected by this Declaration and the other Governing Documents and that the Master Rules and Regulations may change from time to time. All purchasers of Lots are on notice that changes may have been adopted by the Association that are not recorded in the Public Records. Copies of the current Master Rules and Regulations or any other Governing Documents may be obtained from the Association, or if no Association has yet been formed, from the Founder.

**3.4 No Mining, Excavating or Drilling.** The Properties shall not be used for the purpose of mining, quarrying, drilling, boring, or exploring for or removing geothermal resources, oil, gas, or other hydrocarbons, minerals, rocks, stones, gravel, sand, top soil, or earth. Nothing contained herein shall be construed to limit the rights of the owner of a mineral interest severed from the surface of any portion of the Properties prior to the recording of this Declaration and nothing herein shall prevent the Founder or an Owner from moving dirt, gravel rocks and other soils necessary for the development of their respective properties.

3.5 **Protection of Owners and Others.** No rule shall be adopted in violation of the following provisions, except as may be specifically set forth in this Declaration (either initially or by amendment) or in the initial Master Rules and Regulations.

(a) **Equal Treatment.** Similarly situated Owners shall be treated similarly by the Board and the Association.

(b) **Displays.** The rights of Owners to display religious and holiday signs, symbols, and decorations inside structures on their Lots of the kinds normally displayed in dwellings located in single-family residential neighborhoods shall not be abridged, except that the Association may adopt reasonable time, place, and manner restrictions with respect to displays visible from outside the dwelling. Such restrictions may be contained in the Master Rules and Regulations and in the Design Guidelines.

No rules shall regulate the content of political signs; however, rules may regulate the time, place and manner of posting such signs (including design criteria).

(c) **Household Composition.** No rule shall interfere with the freedom of Owners to determine the composition of their households, except that at least one of the dwelling occupants must have an ownership interest in the Lot.

(d) **Activities Within Dwellings.** No rule shall interfere with the activities carried on within the confines of dwellings, except that the Association may prohibit activities not normally associated with property restricted to residential use, and it may restrict or prohibit any activities that create monetary costs for the Association or other Owners, that create a danger to the health or safety of occupants of other Lots, that generate excessive noise or traffic, that create unsightly conditions visible outside the dwelling, or that create an unreasonable source of annoyance as reasonably determined by the Board.

(e) **Insurance Rates.** Nothing shall be done or kept on the Properties that would increase the rate of insurance or cause the cancellation of insurance on any Lot or any of the improvements located upon any Lot, the Common Area without prior written approval of the Board.

(f) **Allocation of Burdens and Benefits.** No rule shall alter the allocation of financial burdens among the various Lots to the detriment of any Owner over that Owner's objection expressed in writing to the Association. This provision does not affect the right to increase the amount of assessments as provided by Article VIII.

(g) **Abridging Existing Rights.** If any rule would otherwise require Owners to dispose of personal property which they maintained in or on the Lot prior to the effective date of such rule, or to vacate a Lot in which they resided prior to the effective date of such rule, and such property was maintained or such occupancy was in compliance with this Declaration and all rules previously in force, such rule shall not apply to any such Owners without their written consent.

(h) **Rights to Develop.** No rule or action by the Association or Board shall impede the Founder's right to develop the Properties or any property annexed into the regime of the Properties as provided for herein.

The limitations in subsections (a) through (h) of this Section 3.5 shall only limit rulemaking authority exercised under Section 3.2; they shall not apply to amendments to this Declaration adopted in accordance with Article XII.

**3.6 Domestic Animals.** No animals, including pigs, poultry, fowl, wild animals, cattle, sheep, goats or any other type of animal not considered to be a domestic household pet within the ordinary meaning and interpretation of such words may be kept, maintained or cared for on the Properties or any Lot that is a part thereof.

Notwithstanding the foregoing, each Lot shall be entitled to a reasonable number of Household Pets (the term Household Pet(s) means generally recognized Household Pets such as dogs, cats, fish, birds, rodents, and non-poisonous reptiles), so long as such pets are not kept for any commercial purpose, are not kept in unreasonable numbers, do not cause an unreasonable amount of noise, odor, or do not otherwise become a nuisance to other Owners. Such reasonable number shall be determined according to the Master Rules and Regulations, as amended from time to time. All Owners or Occupants with household pets shall keep the animals restrained and controlled on the Owner's Lot at all times so they do not cause a nuisance to others and do not harass or endanger wildlife. For purposes of this Section, "nuisance" means any noisy animal, any vicious animal, or any animal which chews, tears, digs in or scratches, litters or soils, destroys, or in any other manner injures clothing, garbage containers, gardens, flower beds, lawns, trees, shrubbery, or any other personal or real property within the Properties. Excessive, continued, or untimely barking, molesting passersby, chasing vehicles, habitually attacking other animals, trespassing upon private property in such a manner as to damage property shall also be deemed a nuisance. For purposes of this Section, a "noisy animal" means any animal which habitually, constantly, or frequently disturbs the sleep, peace, or quiet of any person. The Association, the Board, or its designee may require an Owner, at its own expense, to remove a pet determined by the Association to be a nuisance pet and, upon failure of the Owner to do so, the Board or its designee shall have the right to enter the Lot and remove the nuisance pet and any such action shall not be deemed a trespass, and the cost therefor shall be levied against the offending Owner as a Specific Assessment. In the event the Board removes such an animal, the animal shall be kenneled and the cost therefor shall be levied against the offending Owner as a Specific Assessment.

No owner or keeper of any animal who is visiting or working on the Properties shall be permitted to allow such animals to run free. Also, no pet or animal shall be restrained by leash, cord, chain, rope, or other attachment fixed to any vehicle, post, tree, or other structure or object within the Properties thereby allowing such animal to become a nuisance or interfere with pedestrian or vehicular traffic in and around any public area within the Properties.

The Owner of a Lot where a household pet is kept, as well as the legal owner of the pet (if not such Owner), shall be jointly and severally liable for any and all damage and destruction caused by the pet, and for any clean-up of roads or other Lots necessitated by such pet.

The Association shall have, and is hereby given, the right and authority to determine in its sole discretion that household pets are being kept for commercial purposes, or are otherwise a nuisance to other Owners or Occupants, or that a Owner or Occupant is otherwise in violation of this Section, and to take such action or actions as it deems reasonably necessary to remedy the violation.

**3.7 Wildlife.** It is recognized by the Founder and the Owners of any Lot within the Properties that many wildlife species live on the Properties during various times of year. In accordance with any Teton County Wildlife feeding ordinance, no elk, deer, moose, bear, or other big game animals shall be fed hay or any other food, manufactured or otherwise, within the Properties in order to prevent migrating animals from interrupting their migrations to winter range and to prevent such animals from becoming habituated to unnatural food sources.

**3.8 Fencing.** No fence, gate, hedge or wall shall be erected or maintained except in compliance with the Design Guidelines. All permitted fencing shall require the prior written approval of the Board or the ARC.

**3.9 Trees.** No Douglas Fir, Cottonwood or other tree shall be installed at any location on the Properties if such tree at maturity is reasonably expected to reach a height in excess of twenty-seven (27) feet. All tree plantings must be approved in advance by the Board or the ARC.

**3.10 Vehicle Parking, Storage, Operation and Repair.**

(a) No boats, trailers, buses, motor homes, campers (on or off supporting vehicles), motorcycles, snowmobiles, recreational vehicles, golf carts, trucks, industrial or commercial vehicles (both cabs or trailers), abandoned or inoperable vehicles (as defined below), or any other similar vehicles (excepting passenger vehicles and one-ton or smaller pick-up trucks) shall be parked or stored in or upon the parking areas adjacent to the Lots, or any other location within the Properties, and no vehicle of any kind shall be maintained, repaired, repainted, serviced or rebuilt on the Properties. This restriction shall not prevent the non-commercial washing and polishing of vehicles and boats, together with activities normally incidental thereto. Owners having garages on their Lots shall park their vehicles in those garages and shall ensure that space is maintained in the garages for vehicle parking and the garages are not use primarily for storage of items of personal property.

(b) Notwithstanding the foregoing, prohibited vehicles may be temporarily parked on driveways of Lots for loading, delivery or emergency purposes, but only for the time required to accomplish such purpose, and as necessary for the construction or maintenance of improvements within the Properties upon compliance with the Design Guidelines and any conditions imposed by the Board or the ARC. In addition, guests and invitees of Owners may temporarily park their vehicles on Lot driveways for the duration of their visit, provided such time period does not exceed a reasonable time as determined in the sole and absolute discretion of the Board or the ARC.

(c) An “abandoned or inoperable vehicle” shall mean any motorized vehicle which does not display a current motor vehicle license or which has not been driven under its own propulsion for a period of two (2) weeks or longer (excepting otherwise permitted vehicles parked by Lot Owners or Occupants on their Lot driveways while on vacation or during a period of illness), or which does not have an operable propulsion system within the vehicle.

(d) In the event that the Board or the ARC shall determine that a vehicle is abandoned or inoperable, or is otherwise in violation of the provisions of this Section 3.10, a written notice of violation describing said vehicle shall be personally delivered to the vehicle owner (if such owner can be reasonably ascertained) or shall be conspicuously placed upon the vehicle (if the owner cannot be reasonably ascertained), and if the offending vehicle is not removed within seventy-two (72) hours thereafter, the Association, Board or ARC (as the case may be) shall have the right to remove and store the offending vehicle, or cause the vehicle to be removed and stored, at the sole expense of the Owner of the Lot on which the vehicle is located and to enter upon an Owner’s Lot for such purpose, all without liability on the part of the Board or ARC. Any expense incurred by the Board or the ARC pursuant to this Section may be levied against such Owner as a Specific Assessment.

(e) Motorcycles, and motorized trail bikes, mini-bikes, dirt bikes, all-terrain vehicles, mopeds, go-carts and similar motorized vehicles licensed for operation on public roads may be used or operated on the Properties except as such use may be expressly limited in the Master Rules and Regulations. Snowmobiles may not be operated on the Properties.

**3.11 Garbage Storage.** Garbage set out for pick up shall be stored in wildlife-proof dumpsters or containers, and shall not, in any event, be set out in such a manner to allow persons, vehicles, animals, or weather to scatter such garbage among the Properties.

**3.12 Nuisance.** No noxious or offensive activity shall be carried on upon the Properties or any Lot within the Properties, nor shall anything be done or placed thereon which may be or become a nuisance, or cause unreasonable embarrassment, disturbance or annoyance to other Owners or occupants in their enjoyment of their Lots, or in their enjoyment of the Common Area. Without limiting the foregoing, no horns, whistles, bells or other sound devices, except security devices used exclusively to protect the security of the Properties and improvements located thereon, shall be placed or used upon any Lot.

**3.13 Common Area.** Use of all other services and amenities on the Properties, including, but not limited to the Common Area, if any, shall be managed by the Association and be subject to the Master Rules and Regulations.

#### **ARTICLE IV – ARCHITECTURE AND LANDSCAPING**

**4.1 General.** No structure shall be placed, erected, or installed upon any Lot, and no improvements (including staking, clearing, excavation, grading and other site work, exterior alterations of existing improvements, and planting or removal of landscaping materials) shall

take place except in compliance with this Article, the Design Guidelines promulgated pursuant to Section 4.3 and the Town of Jackson Land Development Regulations.

Any Owner may remodel, paint or redecorate the interior of structures on his Lot without approval. However, modifications to the interior of patios, and similar portions of a Lot visible from outside the structures on the Lot shall be subject to approval. No approval shall be required to repaint the exterior of a structure in accordance with the originally approved, or pre-existing, color scheme or to rebuild in accordance with originally approved, or pre-existing, plans and specifications.

All structures constructed on any portions of the Properties shall be designed by and built in accordance with the plans and specifications of a licensed architect. All plans and specifications shall be subject to review as provided herein.

This Article may not be amended without the Founder's written consent so long as the Founder owns any land subject to this Declaration or any Supplemental Declaration.

#### **4.2 Architectural Review.**

(a) **Architectural Review Committee.** The ARC shall be established as the governing body that maintains an organized and uniform review process for all proposed improvements within the Properties pursuant to the procedures, guidelines and timelines set forth in this Declaration and in the Design Guidelines. The Founder shall appoint all three (3) of the original members of the ARC and all replacements as long as the Founder owns any of the Lots within the Properties or any of the lands subject to annexation to this Declaration. Thereafter, all of the members of the ARC shall be appointed by the Board.

(b) **Fees; Assistance.** The ARC shall establish and will charge reasonable fees to reimburse the ARC for review of applications hereunder and may require such fees to be paid in full prior to review of any application pursuant to the Design Guidelines. Such fees may include the reasonable costs incurred in having any application reviewed by architects, engineers or other professionals. The Founder and the Association may employ architects, engineers, or other persons as deemed necessary to perform the review. The Board shall include the compensation of such persons, if any, in the fee charged by the ARC to the applying Owner.

#### **4.3 Guidelines and Procedures.**

(a) **Design Guidelines.** The Board and/or the ARC may prepare Design Guidelines, which may contain general provisions applicable to all of the Lots. The Design Guidelines are intended to provide guidance to Owners, Builders and/or Architects regarding matters of particular concern to the ARC in considering applications hereunder. Approval pursuant to the Design Guidelines shall be in the sole and absolute discretion of the ARC.

(b) **Board Approval.** No building, fence, wall, or other structure shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition or alteration to a unit be made until the plans and specifications showing the nature, kind, shape,

height, materials, and location of the same have been submitted to and approved in writing by the Board or the ARC. In the event the Board or ARC fails to approve or disapprove such design and location within ninety (90) days after said plans and specifications have been submitted, approval shall be deemed given.

(c) **Obligation to Complete Construction.** Regardless of the type of improvement being constructed on a Lot, once construction has commenced, it must be completed within twelve (12) months from the date construction commenced unless otherwise specified in the notice of approval or unless the ARC or the Board grants an extension in writing. The ARC shall not be obligated to grant any extension but shall not unreasonably withhold such extension if construction of the improvement(s) is diligently pursued.

**4.4 Limitation of Liability.** The standards and procedures established by this Article are intended as a mechanism for maintaining and enhancing the overall aesthetics of the Properties but shall not create any duty to any Person. Review and approval of any application pursuant to this Article is made on the basis of aesthetic considerations only, and the neither the Board nor the ARC shall not bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications, nor for ensuring compliance with building codes and other governmental requirements or compliance with plans and specifications, nor for ensuring that all dwellings are of comparable quality, value or size or of similar design. Neither the Founder, the Association, the Board, any committee, nor member of any of the foregoing shall be held liable for soil conditions, drainage or other general site work, or for any defects in plans revised or approved hereunder, or for any injury, damages, or loss arising out of the manner or quality of approved construction on or modifications to any Lot. In all matters, the ARC and all persons comprising the ARC shall be defended and indemnified by the Association as provided in Section 7.6.

**4.5 Enforcement.** Any structure, improvement or landscaping placed or made in violation of this Article or the Design Guidelines shall be deemed to be nonconforming. Upon written request from the Founder, the ARC or the Board, Owners shall, at their own cost and expense, remove such structure or improvement and restore the property to substantially the same condition as existed prior to the nonconforming Work. Should an Owner fail to remove and restore as required, the Founder, the Association or its designees shall have the right to enter the property, remove the violation, and restore the property to substantially the same condition as previously existed. All costs, together with interest at the maximum rate then allowed by law, may be assessed against the benefited Lot and collected as a Specific Assessment.

All approvals granted hereunder shall be deemed conditioned upon completion of all elements of the approved Work and all Work previously approved with respect to the same Lot, unless approval to modify any application has been obtained. In the event that any Person fails to commence and diligently pursue to completion all approved Work, the Founder or the Association shall be authorized, after notice to the Owner of the Lot and an opportunity to be heard in accordance with the Bylaws, to enter upon the Lot and remove or complete any incomplete Work and to assess all costs incurred against the Lot and the Owner thereof as a Specific Assessment.

Any contractor, subcontractor, agent, employee, or other invitee of an Owner who fails to comply with the terms and provisions of this Article and the Design Guidelines may be excluded from the Properties, subject to the notice and hearing procedures contained in the Bylaws. In such event, neither the Founder, nor the Association its officers, or directors shall be held liable to any Person for exercising the rights granted by this Section.

In addition to the foregoing, the Association and the Founder shall have the authority and standing to pursue all legal and equitable remedies available to enforce the provisions of this Article and the decisions of the ARC.

**4.6 Development and Use Restrictions.** All development of the Properties shall conform to the following requirements:

(a) **Provisions in Addition to Town Land Use Regulations.** Conformity with any and all applicable land use regulations of the Town of Jackson, Wyoming shall be required, in addition to the requirements of this Declaration.

(b) **Authorized Use.** Only single-family residential use shall be permitted, together with the keeping of domestic household pets subject to the limitations set forth herein

(c) **Authorized Structures.** No building or structure shall be constructed on any Lot, except one single family residence. An attached garage shall be allowed only if the Founder had previously constructed a garage on the Lot.

**4.7 Construction.** No pre-fabricated or modular structures shall be permitted on any Lot without approval of the ARC or the Board. No trailers or mobile homes shall be permitted on any Lot.

**4.8 Height, Size and Floor Area Limitations.** Building height, size and floor area limitations shall be as determined by the Land Development Regulations of the Town of Jackson, Wyoming and the Design Guidelines, whichever is more restrictive.

**4.9 Utilities.** All utilities shall be placed in the utility easement area on the Properties. Connections from improvements on Lots to the underground utility lines and pipes shall be completed at the Owners' expense, and shall be constructed underground. Above ground utility installations are prohibited except for appurtenances necessary to access, operate and maintain the underground utilities. Propane tanks may not be installed on any Lot Notwithstanding the foregoing or any other provision contained herein to the contrary, above-ground utilities shall be permitted, in the sole and absolute discretion of the ARC or the Board, when it is impossible or impractical to install such utilities underground. In any case in which utilities or appurtenances to such utilities are installed above ground, the ARC or the Board shall determine what design and/or landscaping measures shall be taken to mitigate the visual impact of such above ground utilities or appurtenances on the Properties.



**4.10 Temporary Structures Prohibited.** No temporary structures, such as trailers, tents, tree houses, shacks or other similar buildings shall be permitted on any Lot, except during construction or as authorized by the Board or ARC.

**4.11 Satellite Dishes.** Except as otherwise approved by the ARC or the Board, A 24" or smaller diameter satellite dish shall be permitted on any Lot, provided that such satellite dish must be visually shielded from adjacent Lots with shielding approved by the ARC or the Board before such satellite dish is installed.

**4.12 Noxious Weeds and Exotic Plant Species.** Sources of all sod, seed and landscaping materials shall not contain noxious weeds or exotic species disfavored by the Teton County Weed and Pest Department. The Association may adopt and enforce a program in cooperation with the Teton County Weed and Pest Department to eradicate noxious weeds present or occurring on the Properties. In no event shall the Association have an obligation to chemically or manually remove noxious weeds or exotic plant species from the Properties.

## **ARTICLE V – MAINTENANCE AND REPAIR**

**5.1 Maintenance of Lots.** Each Owner shall maintain his or her Lot and any and all improvements thereon in a manner consistent with the Governing Documents, the Community-Wide Standard and all applicable covenants. If an Owner does not maintain his or her Lot to the appropriate standards, the Association shall have the right to perform such maintenance on the Owner's behalf and the costs of such maintenance shall be assessed to the Owner as a Specific Assessment.

**5.2 Maintenance of Utilities.** Each Owner shall be responsible for any and all maintenance and repair of the sewer line extending from the structure(s) on his Lot and through the Common Areas to the point of connection with the main sewer line. The Association shall be responsible for the maintenance and repair of the main sewer line. Each Owner shall be responsible for any and all maintenance and repair of the water line extending from structure(s) located on his Lot to the point of connection with the main water line. The Association shall be responsible for the maintenance and repair of the main water line, and all associated wells and pumps. To the extent the Common Area is disturbed by an Owner, or the agent of an Owner, in the process of repairing the Owner's sewer line or water line, the Owner shall return the Common Area to the condition in which it existed prior to the maintenance within a reasonable amount of time after the repair and if the Owner fails to do so, after reasonable notice to the Owner pursuant to Section 8.4, the Board may cause such repair to be made and shall assess the cost therefore to the Owner as a Specific Assessment.

## PART THREE: COMMUNITY GOVERNANCE AND ADMINISTRATION

### ARTICLE VI – THE ASSOCIATION AND ITS MEMBERS

**6.1 Function of Association.** The Association shall be the entity responsible for management, maintenance, operation and control of the Common Area. The Association also shall be the primary entity responsible for enforcement of the Governing Documents. The Association shall perform its functions in accordance with the Governing Documents and the laws of the State of Wyoming.

**6.2 Membership.** Every Owner of a Lot, by virtue of their purchase of a Lot or the acceptance of a deed therefore, shall be a Member of the Association. There shall be only one membership per Lot. If a Lot is owned by more than one Person, all co-Owners shall share the privileges of such membership, subject to reasonable Board regulation and the restrictions on voting set forth in Section 6.3(a), and all such co-Owners shall be jointly and severally obligated to perform the responsibilities of Owners. The membership rights of an Owner which is not a natural person may be exercised by any officer, director, partner or trustee, or by the individual designated from time to time by the Owner in a written instrument provided to the Secretary of the Association except where such privileges may be restricted by the Master Rules.

**6.3 Voting.** The Association shall have one class of membership. Members shall have one equal vote for each Lot in which they hold the interest required for membership under Section 6.2. All votes shall be cast as provided in Section 6.3(a).

(a) **Exercise of Voting Rights.** The vote for each Lot owned by a Member shall be exercised by the Owner of the Lot. In any situation where there is more than one Owner of such Lot, the vote for such Lot shall be exercised as the co-Owners determine among themselves and advise the Secretary of the Association in writing prior to the vote being taken. Absent such advice, the Lot's vote shall be suspended if more than one Person seeks to exercise it in a conflicting manner.

(b) **Commencement of Voting Rights.** Voting rights as to each Lot shall vest upon the commencement of assessment obligations for such Lot.

### ARTICLE VII – ASSOCIATION POWERS AND RESPONSIBILITIES

#### 7.1 **Acceptance and Control of Association Property.**

(a) The Association, through action of its Board, may acquire, hold, and dispose of tangible and intangible personal property.

(b) The Founder and its designees may convey real or personal property to the Association.

## **7.2 Maintenance of Common Area.**

(a) The Association shall maintain, in accordance with the Community-Wide Standard, the Common Area and the easements held by the Association, if any, along with such portions of additional property included within the Common Area as may be dictated by this Declaration, any Supplemental Declaration, any Covenant to Share Costs, or any contract or agreement for maintenance thereof entered into by the Association.

(b) The Association may maintain other property that it does not own if the Board determines that such maintenance is necessary or desirable to maintain the Community-Wide Standard. The Association shall not be liable for any damage or injury occurring on or arising out of the condition of, property which it does not own except to the extent that it has been negligent in the performance of its maintenance responsibilities.

(c) The Association shall own and maintain the facilities and equipment within the Common Area, if any, in continuous operation, except for any periods necessary, as determined in the sole discretion of the Board, to perform required maintenance or repairs, unless one hundred percent (100%) of the Members in the Association agree in writing to discontinue such operation.

(d) Notwithstanding the foregoing, the Common Area shall not be reduced by amendment of this Declaration or any other means except with the prior written approval of the Founder as long as the Founder owns any property described on **Exhibit A** of this Declaration

(e) The costs associated with maintenance, repair and replacement of the Common Area and any improvements thereon shall be a Common Expense; provided, if the Board reasonably determines, after notice and an opportunity to be heard in accordance with the Bylaws, that the maintenance, repair or replacement is necessitated by the negligence or willful misconduct of one or more Owners, their guests, invitees, or lessees, then the Board may assess the full amount of such maintenance, repair or replacement against such Owner(s) and their Lot(s) as a Specific Assessment.

## **7.3 Insurance.**

(a) **Required Coverages.** The Association, acting through its Board or its duly authorized agent, shall obtain and continue in effect the following types of insurance, if reasonably available, or if not reasonably available, the most nearly equivalent coverages as are reasonably available:

(i) Blanket property insurance covering "risks of direct physical loss" on a "special form" basis (or comparable coverage by whatever name denominated) for all insurable improvements within the Common Area to the extent that the Association has assumed responsibility in the event of a casualty, regardless of ownership. If such coverage is not generally available at reasonable cost, then "broad form" coverage may be substituted. All property insurance policies obtained by the Association shall have policy limits sufficient to

cover the full replacement costs of the insured improvements under current building ordinance and codes;

(ii) Commercial general liability insurance on the Common Area, insuring the Association and its Members for damage or injury caused by the negligence of the Association or any of its Members, employees, agents, or contractors while acting on its behalf. If generally available at reasonable cost, such coverage (including primary and any umbrella coverage) shall have a limit of at least one million dollars (\$1,000,000.00) per occurrence with respect to bodily injury, personal injury, and property damage; provided, should additional coverage and higher limits be available at reasonable cost which a reasonably prudent person would obtain, the Association shall obtain such additional coverages or limits. If the policy does not contain "severability of interest" in its terms, the Association shall acquire an endorsement to preclude the insurer's denial of a Owner's claim because of negligent acts of the Association or of other Owners;

(iii) Such additional insurance as the Board, in its best business judgment, determines advisable.

Premiums for all insurance on the Common Area shall be assessed by the Board as a Common Expense.

(b) **Policy Requirements.** All Association policies shall provide for a certificate of insurance to be furnished to the Association and, upon request, to each Member insured.

The policies may contain a reasonable deductible, and the amount thereof shall not be subtracted from the face amount of the policy in determining whether the policy limits satisfy the requirements of Section 7.3(a). In the event of an insured loss, the deductible shall be treated as a Common Expense in the same manner as the premiums for the applicable insurance coverage. However, if the Board reasonably determines, after notice and an opportunity to be heard in accordance with the Bylaws, that the loss is the result of the negligence or willful misconduct of one or more Owners, their guests, invitees, or lessees, then the Board may assess the full amount of such deductible against such Owner(s) and their Lots as a Specific Assessment.

All insurance coverage obtained by the Board shall:

(i) Be written with a company authorized to do business in the State of Wyoming;

(ii) Be written in the name of the Association as trustee for the benefited parties.

(iii) Not be brought into contribution with insurance purchased by Owners, occupants, or their Mortgagees individually;

(iv) Contain an inflation guard endorsement;

(v) Include an agreed amount endorsement if the policy contains a co-insurance clause;

(vi) Provide a waiver of subrogation under the policy against any Owner or household member of an Owner;

(vii) Include an endorsement precluding cancellation, invalidation, suspension, or non-renewal by the insurer on account of any one or more individual Owners, or on account of any curable defect or violation without prior written demand to the Association to cure the defect or violation and allowance of a reasonable time to cure;

(vii) Include an endorsement precluding cancellation, invalidation, or condition to recovery under the policy on account of any act or omission of any one or more individual Owners, unless such Owner is acting within the scope of its authority on behalf of the Association;

(ix) Provide that the policy will be primary, even if an Owner has other insurance that covers the same loss.

In addition, the Board shall use reasonable efforts to secure insurance policies which list the Owners as additional insureds and provide:

(i) A waiver of subrogation as to any claims against the Association's Board, officers, employees, and its manager, its attorneys, the Owners and their tenants, servants, agents, and guests;

(ii) A waiver of the insurer's rights to repair and reconstruct instead of paying cash;

(iii) An endorsement excluding Owners' individual policies from consideration under any "other insurance" clause;

(iv) An endorsement requiring at least thirty (30) days prior written notice to the Association of any cancellation, substantial modification, or non-renewal; and

(v) A provision vesting in the Board exclusive authority to adjust losses; provided, however, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any related to the loss.

(c) **Restoring Damaged Improvements.** In the event of damage to or destruction of property that the Association is obligated to insure, the Board or its duly authorized agent shall file and adjust all insurance claims and obtain reliable and detailed estimates of the cost of repairing or restoring the property to substantially the condition in which

it existed prior to the damage, allowing for changes or improvements necessitated by changes in applicable building codes.

Damaged improvements on the property shall be repaired or reconstructed unless at least seventy-five percent (75%) of Members decide within sixty (60) days after the loss not to repair or reconstruct. If either the insurance proceeds or estimates of the loss, or both, are not available to the Association within such sixty (60) day period, then the period shall be extended until such funds or information are available. However, such extension shall not exceed sixty (60) additional days. No Mortgagee shall have the right to participate in the determination of whether the damage or destruction to the Common Area shall be repaired or reconstructed.

If a decision is made not to restore the damaged improvements, and no alternative improvements are authorized, the affected property shall be cleared of all debris and ruins and thereafter shall be maintained by the Association in a neat and attractive, landscaped condition consistent with the Community-Wide Standard.

Any insurance proceeds remaining after paying the costs of repair or reconstruction, or after such settlement as is necessary and appropriate, shall be retained by the Association for the benefit of its Members or the Owners of Lots, as appropriate, and placed in a capital improvements account.

If insurance proceeds are insufficient to cover the costs of repair or reconstruction, the Board may, without a vote of the Members, levy Special Assessments to cover the shortfall against those Owners responsible for the premiums for the applicable insurance coverage under Section 7.3(a).

**7.4 Compliance and Enforcement.** The Association and every Owner and occupant of a Lot shall comply with the Governing Documents. The Board may impose sanctions against Owners for violation of the Governing Documents after notice and a hearing in accordance with the procedures set forth in the Bylaws. Such sanctions may include, without limitation:

(a) Imposing reasonable monetary fines (which shall not, except in the case of nonpayment of assessments, constitute a lien upon the violator's Lot). In the event that any occupant, guest or invitee of a Lot violates the Governing Documents and a fine is imposed, the fine shall first be assessed against the violator; provided however, if the fine is not paid by the violator within the time period set by the Board, the Owner shall pay the fine upon notice from the Board;

(b) Suspending an Owner's right to vote;

(c) Suspending any Person's right to use any Common Area within the Properties; provided, however, nothing herein shall authorize the Board to limit ingress or egress to or from a Lot;

(d) Suspending any services provided by the Association to an Owner or the Owner's Lot if the Owner is more than thirty (30) days delinquent in paying any assessment or other charge owed to the Association;

(e) Exercising self-help or taking action to abate any violation of the Governing Documents in a non-emergency situation;

(f) Requiring an Owner, as its own expense, to remove any structure or improvements on such Owner's Lot in violation of Article IV and to restore the Lot to its previous condition and, upon failure of the Owner to do so, the Board or its designee shall have the right to enter the property, remove the violation and restore the property to substantially the same condition as previously existed and any such action shall not be deemed a trespass;

(g) Without liability to any Person, precluding any contractor, subcontractor, agent, employee or other invitee of an Owner who fails to comply with the terms and provisions of Article IV and the Design Guidelines from continuing or performing any further activities in the Properties; and

(h) Levying Specific Assessments to cover costs incurred by the Association to bring a Lot into compliance with Governing Documents.

In addition, the Board may take the following enforcement procedures to ensure compliance with the Governing Documents without the necessity of compliance with the procedures set forth in the Bylaws:

(a) Exercising self-help in any emergency situation (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules and regulations), and

(b) Bringing suit at law or in equity to enjoin any violation or to recover monetary damages to both.

In addition to any other enforcement rights, if an Owner fails to properly perform his or her maintenance responsibility, the Association may record a notice of violation in the Public Records or perform such maintenance responsibilities and assess all costs incurred by the Association against the Lot and the Owner as a Specific Assessment. Except in an emergency situation, the Association shall provide the Owner reasonable notice and an opportunity to cure the problem prior to taking such enforcement action.

All remedies set forth in the Governing Document shall be cumulative of any remedies available at law or in equity. In any action to enforce the Governing Documents, if the Association prevails, it shall be entitled to recover all costs, including, without limitation, attorneys fees and court costs, reasonably incurred in such action.

The Association shall not be obligated to take any action if the Board reasonably determines that the Association's position is not strong enough to justify taking such action

Such a decision shall not be construed a waiver of the right of the Association to enforce such provision at a later time under other circumstances or estop the Association from enforcing any other covenant, restriction or rule.

The Association, by contract or other agreement, may enforce applicable city and county ordinances, if applicable, and permit Teton County, Wyoming or the Town of Jackson, as applicable, to enforce ordinances within the Properties for the benefit of the Association and its Members.

**7.5 Implied Rights; Board Authority.** The Association may exercise any right or privilege given to it expressly by the Governing Documents, or reasonably implied from or reasonably necessary to effectuate any such right or privilege. Except as otherwise specifically provided in the Governing Documents, or by law, all rights and powers of the Association may be exercised by the Board without a vote of the membership.

**7.6 Indemnification of Officers, Directors and Others.** The Association shall indemnify every officer, director, and committee member against all damages and expenses, including counsel fees, reasonably incurred in connection with any action, suit, or other proceeding (including settlement or any suit or proceeding, if approved by the then Board) to which he or she may be a party by reason of being or having been an officer, director, or committee member, except that such obligation to indemnify shall be limited to those actions for which liability is limited under Wyoming law or the Bylaws.

**7.7 Maintenance of Association Standing.** The Association shall be obligated to maintain itself in good standing with the Wyoming Secretary of State and any other governmental entities having jurisdiction over the activities or existence of the Association.

## ARTICLE VIII – ASSOCIATION FINANCES

**8.1 Budgeting and Allocating Common Expenses; Base Assessments.** At least sixty (60) days before the beginning of each fiscal year, the Board shall prepare a budget of the estimated Common Expenses for the coming year, including any contributions to be made to a reserve fund pursuant to Section 8.2. The budget shall also reflect the sources and estimated amounts of funds to cover such expenses, which may include any surplus to be applied from prior years, any income expected from sources other than assessments levied against the Lots, and the amount to be generated through the levy of Base Assessments, Special Assessments and Specific Assessments against each.

The Association is hereby authorized to levy Base Assessments against all Lots subject to assessment under Section 8.6 to fund the Common Expenses. The liability for Common Expenses described herein shall be allocated to each Lot based on a fraction, the numerator of which shall be one and the denominator of which shall be the number of Lots then existing on the Properties (but excluding the Lot identified as “Common Area” on the Plat) Notwithstanding the foregoing, any Limited Common Expense shall be assessed only against the Lots benefited.



The Board shall send a copy of the final budget, together with notice of the amount of the Base Assessment to be levied pursuant to such budget, to each Owner not less than thirty (30) nor more than sixty (60) days prior to the effective date of such budget. Such budget and assessment shall automatically become effective unless subject to the limitation on increases of assessments provided for in Section 8.5.

Failure of the Board to fix assessment amounts or rates or to deliver or mail each Owner an assessment notice shall not be deemed a waiver, modification, or a release of any Owner from the obligation to pay assessments. In such event, each Owner shall continue to pay assessments on the same basis as for the last year for which an assessment was made, if any, until a new assessment is made, at which time the Association may retroactively assess any shortfalls in collections.

The Board may revise the budget and adjust the Base Assessment from time to time during the year, subject to the notice requirements and the limitations on increases of assessments provided for in Section 8.5.

**8.2 Budgeting for Reserves.** The Board shall prepare and review at least annually a reserve budget for the Common Area. The budget shall take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost. The Board shall include in the Common Expense budget adopted pursuant to Section 8.1, a capital contribution paid by Owners to fund reserves in an amount sufficient to meet the projected need with respect both to amount and timing by annual contributions over the budget period.

**8.3 Special Assessments.** In addition to other authorized assessments, the Association may, subject to the limitations of Section 8.5, levy Special Assessments to cover unbudgeted expenses or expenses in excess of those budgeted. Any such Special Assessment may be levied against the entire membership, if such Special Assessment is for Common Expenses, which shall be allocated in the same proportion as set forth in Section 8.1 for the Common Expenses, or against an individual Lot or Lots if such Special Assessment is for an unbudgeted expense relating to less than all of the Lots. Special Assessments shall be payable in such manner and at such times as determined by the Board, and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved. The Board shall provide notice by first class mail to the Owner(s) of the Lot(s) subject to the Special Assessment not less than thirty (30) nor more than sixty (60) days prior to the Special Assessment becoming due.

**8.4 Specific Assessments.** The Association shall have the power to levy Specific Assessments against a particular Lot to cover costs incurred in bringing a nonconforming Lot into compliance with the Governing Documents, or costs incurred as a consequence of the conduct of the Owner or occupants of a nonconforming Lot, their agents, contractors, employees, licensees, invitees, or guests; provided, the Board shall give the nonconforming Lot Owner prior written notice and an opportunity for a hearing, in accordance with the Bylaws, before levying any Specific Assessment under this Section.

**8.5 Limitation on Increases of Assessments.** Notwithstanding any provision to the contrary, and except for assessment increases necessary for emergency situations or to reimburse the Association pursuant to Sections 8.4, the Board may not impose a Base Assessment that is more than twenty percent (20%) greater than each of those assessments for the immediately preceding fiscal year, nor impose a Special Assessment which in the aggregate exceeds twenty percent (20%) of the budgeted Common Expenses for the current fiscal year, without a majority vote of a quorum of the Members who are subject to the applicable assessment at a meeting of the Association, or action without meeting by written ballot in lieu thereof signed by all of the Members of the Association.

For purposes of this Section, “quorum” means more than fifty percent (50%) of the total voting power of the Association subject to the applicable assessment. For purposes of this Section, the term “Base Assessment” shall be deemed to include the amount assessed against each Lot for the year immediately preceding the year for which the assessment is to be increased

An emergency situation justifying a Special Assessment may be, but shall not be limited to, any one of the following:

- (a) An extraordinary expense required by an order of a court;
- (b) An extraordinary expense necessary to repair or maintain the Properties or any part of them for which the Association is responsible where a threat to personal safety on the Properties is discovered; or
- (c) An extraordinary expense necessary to repair or maintain the Properties or any part of them for which the Association is responsible which expense could not have been reasonably foreseen by the Board in preparing and distributing the budget as provided for in Section 8.1. However, prior to the imposition or collection of such an assessment, the Board shall pass a resolution containing written findings as to the necessity of the extraordinary expense involved and why the expense was not or could not have been reasonably foreseen in the budgeting process. Such resolution shall be distributed to the Members with the notice of such assessment.

**8.6 Authority to Assess Owners; Date of Commencement of Assessments; Time of Payment.** The Founder hereby establishes that the Association is authorized to levy assessments as provided for in this Article and elsewhere in the Governing Documents. Subject to Sections 8.1 and 8.7, the obligation to pay the assessments provided for herein shall commence as to all Lots on the first day of the month following the first conveyance of a Lot to an Owner not affiliated with the Founder. The first annual assessment shall be adjusted according to the number of days remaining in the fiscal year at the time assessments commence on the Lot. Any assessments collected but not spent prior to the Association incurring expenses shall be placed into the Association’s reserve account for maintenance, repair and replacement of the Common Areas and any other common amenities.

Assessments shall be paid in such manner and on such dates as the Board may establish. The Board may require advance payment of assessments at closing of the transfer of title to a Lot and impose special requirements for Owners with a history of delinquent payment. If the Board so elects, annual assessments may be paid in two or more installments. Unless the Board otherwise provides, the Base Assessment shall be due and payable in advance on the first day of each fiscal year. If any Owner is delinquent in paying any assessments or other charges levied on his or her Lot, the Board may require the outstanding balance on all assessments to be paid in full immediately.

#### **8.7 Personal Obligation.**

(a) Each Owner, by accepting a deed or entering into a recorded contract of sale for any portion of the Properties, is deemed to covenant and agree to pay all assessments authorized in the Governing Documents. All assessments, together with interest (computed from its due date at a rate of eighteen percent (18%) per annum or such other rate as the Board may establish, subject to the limitations of Wyoming law), late charges as determined by Board resolution, costs, and reasonable attorneys' fees, shall be the personal obligation of each Owner and a lien upon each Lot until paid in full. Upon a transfer of title to a Lot, the grantee shall not be personally liable for any assessments and other charges due at the time of conveyance unless expressly assumed by him/her, but such transferred Lot shall remain subject to any liens imposed upon it pursuant to Section 8.8 herein. No first Mortgagee who obtains title to a Lot by exercising the remedies provided in its Mortgage shall be liable for unpaid assessments which accrued prior to such acquisition of title.

Failure of the Board to fix assessment amounts or rates or to deliver or mail each Owner an assessment notice shall not be deemed a waiver, modification, or a release of any Owner from the obligation to pay assessments. In such event, each Owner shall continue to pay Base Assessments on the same basis as during the last year for which an assessment was made, if any, until a new assessment is levied, at which time the Association may retroactively assess any shortfalls in collections.

No Owner may exempt himself from liability for assessments by non-use of the Common Area, by abandonment of his Lot, or any other means. The obligation to pay assessments is a separate and independent covenant on the part of each Owner. No diminution or abatement of assessments or set-off shall be claimed or allowed for any alleged failure of the Association or Board to take some action or perform some function required of it, or for inconvenience or discomfort arising from the making of repairs or improvements, or from any other action it takes.

The Association shall, upon request, furnish to any Owner liable for any type of assessment a certificate in writing signed by an Association officer setting forth whether such assessment has been paid. Such certificate shall be conclusive evidence of payment. The Association may require the advance payment of a reasonable processing fee for the issuance of such certificate.

(b) **Founder's Obligations for Assessments.** The Founder is subject to the payment of assessments against Lots that it owns.

**8.8 Lien for Assessments.** Each Owner, by his or her acceptance of a deed to a Lot, hereby vests in the Association and its agents the right and power to bring all appropriate actions against such Owner personally for the collection as a debt of any unpaid and delinquent billings for Base Assessments, Common Assessments, Special Assessments, Specific Assessments, interest, late fees, enforcement costs and other charges owing by such Owner in accordance with the terms hereof. Additionally, in order to secure payment of any billings for Base Assessments, Common Assessments, as well as Special Assessments and Specific Assessments, interest, late fees, enforcement costs and other charges due hereunder, Founder hereby retains, and each Owner by his or her acceptance of a deed to a Lot, hereby grants the Association and its agents a lien for such Base Assessments, Common Assessments, as well as Special Assessments and Specific Assessments, interest, late fees, enforcement costs and other charges for which such Owner is responsible under the terms hereof. The Board, acting on behalf of the Association, is authorized to record a notice of any unpaid amounts secured by such lien in the Public Records, which shall include a description of the applicable Lot and the name of the Owner thereof and the basis for the amount of the lien. Said lien shall be enforceable by the Association or its agents through all appropriate methods available under applicable Wyoming law for the enforcement of such liens, including without limitation, non-judicial foreclosure, and the Founder and each such Owner hereby expressly grant to the Association a power of sale in connection with said lien. The Association may designate a trustee in writing from time to time to post or cause to be posted the required notices and to conduct such foreclosure sale. The trustee may be changed at any time and from time to time by an instrument in writing and signed by the President or a Vice President of the Association and attested by the Secretary or any Assistant Secretary of the Association and filed for record in the Public Records. The lien herein retained and granted is and shall be expressly subordinate in all respects to any Mortgage predating the charge in question (as evidenced by the recording date of a notice of unpaid assessments in the Public Records). Any holder of a Mortgage that predates the date of the charge in question and who acquires title to a Lot through foreclosure of its Mortgage or acceptance of a deed in lieu of foreclosure thereunder, shall not be liable for the unpaid portion of any such charges relating to the Lot in question that arose prior to such acquisition. Additionally, after any such foreclosure or deed in lieu of foreclosure, such Lot shall remain subject to this Declaration and the above-described lien and the new Owner of such Lot shall thereafter be personally liable for all charges of the type described above which relate to such Lot and which become due after such new Owner acquires title to said Lot by foreclosure or by acceptance of a deed in lieu of foreclosure. Except as otherwise provided above as to holders of Mortgages or by applicable law, no sale or transfer of any Lot shall: (a) relieve any Owner thereof from personal liability for any of such unpaid charges attributable to the applicable Lot which become due prior to the date of such sale or transfer; or (b) satisfy or extinguish the above-described lien in respect of such unpaid charges.

## PART FOUR: COMMUNITY DEVELOPMENT

### ARTICLE IX – ADDITIONAL RIGHTS RESERVED TO FOUNDER

**9.1 Right to Approve Additional Covenants.** So long as Founder owns any property subject to this Declaration, no Person shall record any declaration of covenants, conditions and restrictions, or declaration of condominium or similar instrument affecting any portion of the Properties without Founder's review and written consent. Any attempted recordation without such consent shall result in such instrument being void and of no force and effect unless subsequently approved by written consent signed by the Founder and recorded in the Public Records.

**9.2 Right to Approve Changes in Community Standards.** No amendment to or modification of any Master Rules and Regulations or Design Guidelines shall be effective without prior notice to and the written approval of Founder so long as the Founder owns property subject to this Declaration.

**9.3 Right to Appoint Members of Board and Architectural Review Committee.** The Founder shall have the right to appoint the initial members of the Board of Directors of the Association and the initial members of any committee of the Board, including but not limited to the Architectural Review Committee, except as otherwise provided in the Bylaws.

**9.4 Right to Delay Commencement of Association, Meetings or Assessments.** The Founder hereby reserves the right to delay the filing of the Articles for the Association, creation of Bylaws and Master Rules and Regulations, Architectural Review Committee and Design Guidelines, or to delay the commencement of Association meetings or to delay implementation of Association assessments as required hereunder and in the Bylaws. In the event that the Founder elects to delay the creation of the association and/or the Architectural Review Committee, the rights, but not the obligations, of the Association and/or the Architectural Review Committee created by this Declaration are hereby assigned to the Founder until such time as the Association and/or Architectural Review Committee is created.

**9.5 Termination of Rights.** The rights contained in this Article shall not terminate until the Founder, or any individual Founder, is no longer a record owner of any real property subject to this Declaration unless Founder elects to terminate such reservations at an earlier date. Founder may from time to time relinquish and surrender one or more but less than all of the reserved rights, in which event the unrelinquished reserved rights shall remain fully valid and effective for the remainder of the term thereof.

## PART FIVE: PROPERTY RIGHTS WITHIN THE COMMUNITY

*The nature of living in a community requires the creation of special property rights and provisions to address the needs and responsibilities of the Owners, the Founder, the Association, and others within or adjacent to the community.*

### ARTICLE X – EASEMENTS

**10.1 Easements in Common Area.** Excepting Limited Common Elements, which are addressed in the following sentence, the Founder grants to each Owner a non-exclusive right and easement of use (subject to the rights of other Owners, Members and the Association), access, and enjoyment in and to the Common Area

The Founder grants to each Owner (subject to the rules, regulations, and restrictions contained in the Governing Documents) an exclusive right and easement of use, access, and enjoyment in and to the Limited Common Elements that are appurtenant to the Lots owned by such Owner, which shall include without limitation the decks and parking areas associated with each Lot. Such exclusive right and easement of use, access, and enjoyment in the Limited Common Elements shall not be severable from the Lot to which it is appurtenant.

The foregoing grants are subject to:

- (a) The Governing Documents and any other applicable covenants;
- (b) Any restrictions or limitation contained in any deed conveying such property to the Association;
- (c) The right of the Board to adopt rules regulating the use and enjoyment of the Common Area (including the Limited Common Elements);
- (d) The right of the Board to suspend the right of an Owner to use the Common Area (i) for any period during which any charge or assessment against such Owner's Lot remains delinquent, and (ii) for a period not to exceed thirty (30) days for a single violation or for a longer period in the case of any continuing violation of the Governing Documents after notice and a hearing pursuant to the Bylaws.

Any Owner may extend his or her right of use and enjoyment of the Common Area to the members of his or her family, lessees, and social invitees, as applicable, subject to reasonable regulation by the Board. An Owner who leases his or her Lot, subject to the terms and conditions of this Declaration, shall be deemed to have assigned all such rights to the lessee of such Lot for the period of the lease.

### **10.2 Easements for Utilities.**

(a) All dedications, limitations, restrictions and reservations of easements, including those for drainage, prepared and recorded by Founder are incorporated herein by reference and made a part of this Declaration for all purposes as if fully set forth in this Declaration.

(b) The Founder hereby grants to the Association and each Owner of a Lot, and, so long as the Founder owns any property described on **Exhibit A** of this Declaration, reserves for itself, and reserves the right to grant to utility providers, the Association, and the owners of any of the properties described on **Exhibit A** of this Declaration perpetual non-exclusive utilities easements located as described on the Plat for the purpose of:

(i) Installing utilities, including without limitation, cable and other systems for sending and receiving data and/or other electronic signals; security and similar systems; and drainage systems; to serve the Properties;

(ii) Inspecting, maintaining, repairing and replacing such utilities and infrastructure to serve the Properties; and

(iii) Access to read utility meters.

(c) All work associated with the exercise of the easements described in subsections (a) and (b) of this Section shall be performed in such a manner as to minimize interference with the use and enjoyment of the property burdened by the easement. Upon completion of the work, the Person exercising the easement shall restore the property, to the extent reasonably possible, to its condition prior to the commencement of the work. The exercise of these easements shall not extend to permitting entry into the structures on any Lot, nor shall it unreasonably interfere with the use of any Lot and, except in an emergency, entry onto any Lot shall be made only after reasonable notice to the Owner or occupant.

**10.3 Easements for Maintenance, Emergency and Enforcement.** The Founder grants to the Association easements over the Common Area as necessary to enable the Association to fulfill its maintenance responsibilities under Section 7.2. The Association shall also have the right, but not the obligation, to enter upon any Lot, but not to enter any structure thereon, for emergency, security, and safety reasons and to inspect for the purpose of ensuring compliance with the Governing Documents and to enforce the Governing Documents. Such right may be exercised by any member of the Board and its duly authorized agents and assignees, and all emergency personnel in the performance of their duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner.

**10.4 Easements for Cross-Drainage.** Every Lot shall be burdened with easements for natural drainage of storm water runoff from other portions of the Properties; provided, no Person shall alter the natural drainage on any Lot to increase materially the drainage of storm water onto adjacent portions of the Properties without the consent of the Owner(s) of the affected Lot and the Board.

10.5 **Easement for Emergency Vehicles.** The Properties are hereby burdened with an easement allowing all policemen, firemen, ambulance personnel, and similar emergency personnel entry to perform their duties, including the enforcement of traffic regulations.



## **PART SIX: RELATIONSHIPS WITHIN AND OUTSIDE THE COMMUNITY**

*The growth and success of the Aspen Stand Townhomes Addition to the Town of Jackson as a community in which people enjoy living requires good faith efforts to resolve disputes amicably, attention to and understanding of relationship within the community and with our neighbors, and protections of the rights of others who have an interest in the community.*

### **ARTICLE XI – DISPUTE RESOLUTION AND LIMITATION ON LITIGATION**

**11.1 Consents for Association Litigation.** Except as provided in this Section, the Association shall not commence a judicial or administrative proceeding without the approval of a majority of a quorum of the Members. This Section shall not apply, however, to (a) actions brought by the Association to enforce the Governing Documents (including, without limitation, the foreclosure of liens); (b) the collection of assessments; or (c) counterclaims brought by the Association in proceedings instituted against it. This Section shall not be amended unless such amendment is approved by the percentage of votes, and pursuant to the same procedures, necessary to institute proceedings as provided above.

**11.2 Alternative Method for Resolving Disputes.** The Founder, the Association, its officers, directors, and committee members, if any, all Persons subject to this Declaration, and any Person not otherwise subject to this Declaration who agrees to submit to this Article (collectively, “Bound Parties”) agree to encourage the amicable resolution of disputes involving the Properties, without the emotional and financial costs of litigation. Accordingly, each Bound Party covenants and agrees that those claims, grievances or disputes described in Section 11.3 shall be resolved using the procedures set forth in Section 11.4 in lieu of filing suit in any court

**11.3 Claims.** Unless specifically exempted below, all Claims arising out of or relating to the interpretation, application or enforcement of the Governing Documents, or the rights, obligations and duties of any Bound Party under the Governing Documents or relating to the design or construction of improvements on the Properties shall be subject to the provisions of Section 11.4.

Notwithstanding the above, unless all parties thereto otherwise agree, the following shall not be Claims and shall not be subject to the provisions of Section 11.4:

(a) Any suit by the Association against a Bound Party to obtain a temporary restraining order (or equivalent emergency equitable relief) and such other ancillary relief as the court may deem necessary in order to maintain the status quo and preserve the Association’s ability to enforce the provisions of Articles III, IV and V;

(b) Any suit between Owners, which does not include Founder or the Association as a party, if such suit asserts a Claim which would constitute a cause of action independent of the Governing Documents, if the amount in controversy exceeds five thousand dollars (\$5,000),

(c) Any suit in which any indispensable party is not a Bound Party;

(d) Any suit as to which the applicable statute of limitations would expire within one-hundred twenty (120) days of the Request for Resolution pursuant to Section 11.4, unless the party or parties against whom the Claim is made agree to toll the statute of limitations for such periods as may be reasonably necessary to comply with this Article; and

With the consent of all parties thereto, any of the above may be submitted to the alternative dispute resolution procedures set forth in Section 11.4.

#### **11.4 Mandatory Procedures.**

(a) **Request for Resolution.** Any Bound Party having a Claim ("Claimant" against any other Bound Party ("Respondent") (collectively, the "Parties") shall notify each Respondent in writing (the "Request for Resolution"), stating plainly and concisely:

1. The nature of the Claim, including the Persons involved and Respondent;
2. The legal basis of the Claim (i.e., the specific authority out of which the Claim arises);
3. Claimant's proposed remedy; and
4. That Claimant will meet with Respondent to discuss in good faith ways to resolve the Claim; and
5. That Respondent must respond to the Request for Resolution within thirty (30) days of its receipt or it will be deemed to have been rejected.

#### **(b) Negotiation and Mediation.**

1. The Parties shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation. If requested in writing, accompanied by a copy of the Request for Resolution, the Board may appoint a representative to assist the Parties in negotiation.

2. If the Respondent rejects the Request for Resolution, or Parties do not resolve the Claim within ninety (90) days of the date of acceptance of the Request for Resolution (or within such other period as may be agreed upon by the Parties) ("Termination of Negotiations"), Claimant shall have thirty (30) additional days to submit the Claim to mediation under the auspice of an independent mediation agency providing dispute resolution services in Teton County, Wyoming.

3. If Claimant does not submit the Claim to mediation within such time, or does not appear for the mediation, Claimant shall be deemed to have waived the Claim, and Respondent shall be released and discharged from any and all liability to Claimant on account of

such Claim; provided, nothing herein shall release or discharge Respondent from any liability to any Person other than the Claimant.

4. Any settlement of the Claim through mediation shall be documented in writing by the mediator and signed by the Parties. If the Parties do not settle the Claim within thirty (30) days after submission of the matter to the mediation, or within such time as determined by the mediator, the mediator shall issue a notice of termination of the mediation proceedings ("Termination of Mediation"). The Termination of Mediation notice shall set forth that the Parties are at an impasse and the date that mediation was terminated.

5. Within five (5) days of the Termination of Mediation, the Claimant shall make a final written settlement demand ("Settlement Demand") to the Respondent, and the Respondent shall make a final written settlement offer ("Settlement Offer") to the Claimant. If the Claimant fails to make a Settlement Demand, Claimant's original Request for Resolution shall constitute the Settlement Demand. If the Respondent fails to make a Settlement Offer, Respondent shall be deemed to have made a "zero" or "take nothing" Settlement Offer. In this event, the Mediator shall issue a final written binding decision within ten (10) days of the last offer. This decision shall bind the parties and may be reduced to judgment. The judgment may be enforced by a court of law after the procedures described in Section 11.6 have been exhausted.

#### **11.5 Allocation of Costs of Resolving Claims.**

(a) Subject to Section 11.5(b), each Party shall bear its own costs, including attorneys' fees, and each Party shall share equally all charges rendered by the mediator(s) ("Post Mediation Costs").

(b) Any Award which is equal to or more favorable to Claimant than Claimant's Settlement Demand shall add Claimant's Post Mediation Costs to the Award, such costs to be borne equally by all Respondents. Any Award which is equal to or less favorable to Claimant than any Respondent's Settlement Offer shall award to such Respondent its Post Mediation Costs.

**11.6 Enforcement of Resolution.** After resolution of any Claim, if any Party fails to abide by the terms of any agreement or Award, then any other Party may file suit or initiate administrative proceedings to enforce such agreement or Award without the need to again comply with the procedures set forth in Section 11.4. In such event, the Party taking action to enforce the agreement or Award shall be entitled to recover from the non-complying Party (or if more than one non-complying Party, from all such Parties pro rata) at all costs incurred in enforcing such agreement or Award, including, without limitation, attorneys' fees and court costs.

**11.7 Board Authorization.** The Board may perform any act reasonably necessary to institute, defend, settle, or intervene on behalf of the Association in binding arbitration, non-binding arbitration, mediation, litigation, or administrative proceedings in matters pertaining to (a) enforcement of the governing documents, (b) damage to the Common Area, (c) damage to the

Lots which arises out of, or is integrally related to, damage to the Common Area, or (d) any other civil claim or action.

## ARTICLE XII – AMENDMENT OF DECLARATION

**12.1 By Founder.** In addition to specific amendment rights granted elsewhere in this Declaration, until the conveyance of the first Lot to an Owner unaffiliated with Founder, Founder may unilaterally amend or repeal this Declaration for any purpose. After the conveyance of the first Lot to an Owner unaffiliated with Founder, the Founder may unilaterally amend this Declaration to the extent necessary in the Founder's sole and absolute opinion to implement the orderly development of the Properties; provided, however, that such unilateral amendment right provided in this sentence shall cease upon the earlier of: (i) the date that is five years after the date of this Declaration; or (ii) the date on which the Founder and its affiliates cease to own any of the property described on **Exhibit A** hereto. Thereafter, the Founder may unilaterally amend this Declaration if such amendment is necessary to (i) bring any provision into compliance with any applicable governmental statute, rule, regulation, or judicial determination; (ii) enable any reputable title insurance company to issue title insurance coverage on the Lots; (iii) enable any institutional or Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to make, purchase, insure or guaranty mortgage loans on the Lots; or (iv) to satisfy the requirements of any local, state or federal governmental agency; provided, however, that any such amendment shall not adversely affect the title to any Lot unless the Owner thereof shall consent in writing. Notwithstanding the foregoing, any amendment right of Founder set forth in this Section 12.1 shall automatically terminate upon the date that neither Founder nor any of its affiliates owns any of the property described on **Exhibit A** hereto.

**12.2 By Members.** Except as otherwise specifically provided above and elsewhere in this Declaration, this Declaration may be amended only by the affirmative vote or written consent, or any combination thereof, of at least seventy-five percent (75%) of the Members.

Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

**12.3 Validity and Effective Date.** No amendment may remove, revoke, or modify any right or privilege of the Founder without the written consent of the Founder.

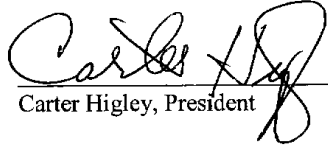
If an Owner consents to any amendment to this Declaration or the Bylaws, it will be conclusively presumed that such Owner has the authority to consent, and no contrary provision in any Mortgage or contract between the Owner and a third party will affect the validity of such amendment.

Any amendment shall become effective upon recording in the Public Records, unless a later effective date is specified in the amendment. Any procedural challenge to an amendment must be made within thirty (30) days of its recordation, or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of this Declaration.

IN WITNESS WHEREOF, the undersigned Founder has executed this Declaration the date and year first written above.

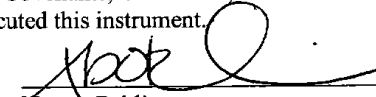
"Founder"

King Shadows, Inc.  
a Wyoming corporation

  
\_\_\_\_\_  
Carter Higley, President

STATE OF Texas )  
 ) ss.  
COUNTY OF Harris )

On this 1st day of May, 2007, before me personally appeared Carter Higley, as President of King Shadows, Inc., a Wyoming corporation, personally known to me, or proved to me on the basis of satisfactory evidence, to be the person whose name is subscribed within this instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on this Declaration of Covenants, Conditions, and Restrictions, the entity upon behalf of which the person acted executed this instrument.

  
\_\_\_\_\_  
Notary Public  
My commission expires:

(seal)

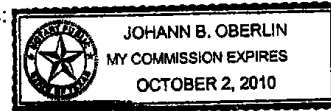


EXHIBIT A

CERTIFICATE OF SURVEYOR

State of Wyoming)

ss

County of Teton)

I, Todd Cedarholm of Jackson, Wyoming, hereby certify that this plat was prepared from data obtained during a survey performed by me and others under my supervision during January, 2007, and from records available in the Office of the Clerk of Teton County; that it correctly represents ASPEN STAND TOWNHOMES ADDITION TO THE TOWN OF JACKSON, identical with Lot 5 of James G. and Julia L. Scarlett Addition, a subdivision of record in the Office of the Clerk of Teton County, Wyoming as Plat No. 1128, and Lot 5 of Block 3, John D. Hall Plat No. 2., a subdivision of record in the Office of the Clerk of Teton County, Wyoming as Plat No. 135 & part of Lot 6 of Block 3, John D. Hall Plat No. 2., a subdivision of record in the Office of the Clerk of Teton County, Wyoming as Plat No. 135 more particularly described as follows:

BEGINNING at the southeast corner of said Lot 5 of James G. and Julia L. Scarlett Addition to the Town of Jackson marked by a 5/8" diameter steel rebar;

THENCE along the south line of said Lot 5 of James G. and Julia L. Scarlett Addition to the Town of Jackson, N 89°59'00" W, 199.95 feet to a 5/8" diameter steel rebar with an aluminum cap inscribed "PE&LS 578";

THENCE along the south line of said Lot 5 and Lot 6 of Block 3, John D. Hall Plat No. 2, N 89°59'13" W, 99.96 feet to a 5/8" diameter steel rebar with an aluminum cap inscribed "PE&LS 2612";

THENCE along the west line of said Lot 6 of Block 3, John D. Hall Plat No. 2, N 00°01'47" E, 150.46 feet to a 5/8" diameter steel rebar with an aluminum cap inscribed "PE&LS 2612";

THENCE along the southwesterly line of that parcel of land deeded to the Town of Jackson in Book 505 of Photo, Pages 1185-1187, S 59°02'48" E, 58.21 feet to a 5/8" diameter steel rebar;

THENCE along the north line of said Lot 5 of Block 3, John D. Hall Plat No. 2, S 68°04'50" E, 53.87 feet to a 5/8" diameter rebar with an aluminum cap inscribed "PE&LS 578";

THENCE along the north line of said Lot 5 of James G. and Julia L. Scarlett Addition to the Town of Jackson, S 68°03'54" E, 215.49 feet to a 5/8" diameter steel rebar;

THENCE along the east line of said Lot 5 of James G. and Julia L. Scarlett Addition to the Town of Jackson, S 00°06'22" E, 20.00 feet to the POINT OF BEGINNING.

that said ASPEN STAND TOWNHOMES ADDITION TO THE TOWN OF JACKSON is located within the SW1/4NE1/4 Section 34, T41N, R116W, 6th P.M., Teton County, Wyoming;

that said ASPEN STAND TOWNHOMES ADDITION TO THE TOWN OF JACKSON contains 0.56 acres, more or less;

that the BASE BEARING for the data provided on this plat is geodetic bearing from GPS measurement;