



BANBURY MEADOWS SUBDIVISION
RESTATED MASTER DECLARATION
OF
COVENANTS, CONDITIONS AND RESTRICTIONS

Dated: APRIL 16, 1999
[Amended by Fifth Supplement 7/23/2004]

Including supplements 1 to 8
and all modifications through
May 8, 2007

TABLE OF CONTENTS

ARTICLE I: RECITALS 2

 1.1 Property Covered 2

 1.2 Residential Development 2

 1.3 Purpose of Master Declaration 2

ARTICLE II: DECLARATION 2

ARTICLE III: DEFINITIONS 3

 3.1 "Architectural Committee" 3

 3.2 "Articles" 3

 3.3 "Assessments" 3

 3.4 "Association" 3

 3.5 "Association Rules" 3

 3.6 "Board" 3

 3.7 "Building Lot" 3

 3.8 "Bylaws" 3

 3.9 "Common Area" 3

 3.10 "Declaration" 3

 3.11 "Grantor" 3

 3.12 "Improvement" 4

 3.13 "Limited Assessment" 4

 3.14 "Local Association" 4

 3.15 "Local Association Board" 5

 3.16 "Local Common Area" 5

 3.17 "Master Association" 5

 3.18 "Member" 5

 3.19 "Banbury Meadows Common Area" 5

 3.20 "Banbury Meadows Subdivision" 5

 3.21 "Owner" 5

 3.22 "Person" 5

 3.23 "Plat" 5

 3.24 "Property" 5

 3.25 "Regular Assessment" 6

 3.26 "Special Assessment" 6

 3.27 "Supplemental Declaration" 6

 3.28 "Tract" 6

 3.29 "Visible Above Ground" 6

 3.30 "Waterway" 6

 3.31 "Banbury Meadows Wildlife Habitat and Nature Park" 6

ARTICLE IV: GENERAL AND SPECIFIC RESTRICTIONS 6

 4.1 Structures - Generally 7

 4.1.1 Lot Use 8

 4.1.2 Architectural Committee Review 9

 4.1.3 Setbacks and Height 9

4.1.4	<u>Building Elevations</u>	9
4.1.5	<u>Accessory Structures</u>	9
4.1.6	<u>Driveways</u>	10
4.1.7	<u>Mailboxes</u>	10
4.1.8	<u>Fencing</u>	10
4.1.9	<u>Lighting</u>	11
4.2	<u>Antennae</u>	11
4.3	<u>Insurance Rates</u>	11
4.4	<u>No Further Subdivision</u>	11
4.5	<u>Signs</u>	11
4.6	<u>Nuisances</u>	11
4.7	<u>Exterior Maintenance: Owner's Obligations</u>	11
4.8	<u>Drainage</u>	12
4.9	<u>Grading</u>	12
4.10	<u>Water Supply Systems</u>	12
4.11	<u>No Hazardous Activities</u>	13
4.12	<u>Unightly Articles</u>	13
4.13	<u>No Temporary Structures</u>	13
4.14	<u>No Unscreened Boats, Campers and Other Vehicles</u>	13
4.15	<u>Sewage Disposal Systems</u>	13
4.16	<u>No Mining or Drilling</u>	13
4.17	<u>Energy Devices, Outside</u>	13
4.18	<u>Vehicles</u>	13
4.19	<u>Animals/Pets</u>	14
4.20	<u>Landscaping</u>	14
4.21	<u>Exemption of Grantor</u>	14
4.22	<u>Water Rights Appurtenant to Subdivision Lands: Irrigation System</u>	15
4.23	<u>Pressure Irrigation System Rules, Regulations and Information Guide</u>	15
4.24	<u>Commencement of Construction</u>	15

ARTICLE V: BANBURY MEADOWS HOMEOWNERS' ASSOCIATION

(MASTER)	16
5.1	<u>Banbury Meadows Homeowners' Association</u>	16
5.2	<u>Membership</u>	16
5.3	<u>Voting</u>	16
5.3.1	<u>Class A Members</u>	16
5.3.2	<u>Class B Members</u>	16
5.4	<u>Board of Directors and Officers</u>	17
5.5	<u>Power and Duties of the Master Association</u>	17
5.5.1	<u>Powers</u>	17
5.5.1.1	<u>Assessments</u>	17
5.5.1.2	<u>Right of Enforcement</u>	17
5.5.1.3	<u>Delegation of Powers</u>	17
5.5.1.4	<u>Association Rules</u>	18
5.5.1.5	<u>Emergency Powers</u>	18
5.5.1.6	<u>Licenses Easements and Rights-of-Way</u>	18
5.5.2	<u>Duties</u>	19

5.5.2.1	<u>Operation and Maintenance of Banbury Meadows</u>	
	<u>Common Area</u>	19
5.5.2.2	<u>Reserve Account</u>	19
5.5.2.3	<u>Maintenance of Berms, Retaining Walls and Fences</u>	19
5.5.2.4	<u>Taxes and Assessments</u>	19
5.5.2.5	<u>Water and Other Utilities</u>	20
5.5.2.6	<u>Insurance</u>	20
5.5.2.7	<u>Rule Making</u>	21
5.5.2.8	<u>Newsletter</u>	21
5.5.2.9	<u>Architectural Committee</u>	21
5.5.2.10	<u>Enforcement of Restrictions and Rules</u>	21
5.6	<u>Personal Liability</u>	22
5.7	<u>Budgets and Financial Statements</u>	22
5.8	<u>Meetings of Master Association</u>	22
ARTICLE VI: LOCAL ASSOCIATIONS		23
6.1	<u>Creation by Grantor</u>	23
6.2	<u>Management, Powers and Duties</u>	23
6.3	<u>Members of Local Associations</u>	23
6.4	<u>Voting in Local Associations</u>	23
	6.4.1 <u>Class A Members</u>	23
	6.4.2 <u>Class B Member</u>	24
6.5	<u>Annual Meetings of Local Association</u>	24
6.6	<u>Special Meetings</u>	24
6.7	<u>Quorum and Officers of Meetings</u>	24
6.8	<u>Powers and Duties</u>	25
ARTICLE VII: RIGHTS TO COMMON AREAS		25
7.1	<u>Use of Banbury Meadows Common Area</u>	25
7.2	<u>Designation of Common Area</u>	26
7.3	<u>Delegation of Right to Use</u>	26
7.4	<u>Damages</u>	26
ARTICLE VIII: ASSESSMENTS		26
8.1	<u>Covenants to Pay Assessments</u>	26
	8.1.1 <u>Assessment Constitutes Lien</u>	26
	8.1.2 <u>Assessment is Personal Obligation</u>	26
8.2	<u>Regular Assessments</u>	27
	8.2.1 <u>Purpose of Regular Assessments</u>	27
	8.2.2 <u>Computation of Regular Assessments</u>	27
	8.2.3 <u>Amounts Paid by Owners</u>	27
8.3	<u>Special Assessments</u>	28
	8.3.1 <u>Purpose and Procedure</u>	28
	8.3.2 <u>Consistent Basis of Assessment</u>	28
8.4	<u>Limited Assessments</u>	30
8.5	<u>Uniform Rate of Assessment</u>	30
8.6	<u>Assessment Period</u>	30

8.7	<u>Notice and Assessment Due Date</u>	30
8.8	<u>Estoppels Certificate</u>	31
8.9	<u>Special Notice and Quorum Requirements</u>	31
ARTICLE IX: ENFORCEMENT OF ASSESSMENTS; LIENS		31
9.1	<u>Right to Enforce</u>	31
9.2	<u>Assessment Liens</u>	31
	9.2.1 <u>Creation</u>	31
	9.2.2 <u>Claim of Lien</u>	32
9.3	<u>Method of Foreclosure</u>	32
9.4	<u>Required Notice</u>	32
9.5	<u>Subordination to Certain Trust Deeds</u>	32
9.6	<u>Rights of Mortgagees</u>	32
ARTICLE X: INSPECTION OF ASSOCIATIONS BOOKS AND RECORDS		33
10.1	<u>Member's Right of Inspection</u>	33
10.2	<u>Rules Regarding Inspection of Books and Records</u>	33
10.3	<u>Director's Rights of Inspection</u>	33
ARTICLE XI: ARCHITECTURAL COMMITTEE		33
11.1	<u>Creation</u>	33
11.2	<u>Grantor's Right of Appointment</u>	33
11.3	<u>Review of Proposed Construction</u>	33
	11.3.1 <u>Conditions on Approval</u>	34
	11.3.2 <u>Architectural Committee Rules and Fees</u>	34
	11.3.3 <u>Detailed Plans</u>	34
	11.3.4 <u>Architectural Committee Decisions</u>	34
11.4	<u>Meetings of the Architectural Committee</u>	35
11.5	<u>No Waiver of Future Approvals</u>	35
11.6	<u>Compensation of Members</u>	35
11.7	<u>Inspection of Work</u>	35
11.8	<u>Non-Liability of Architectural Committee Members</u>	36
11.9	<u>Variances</u>	36
11.10	<u>Local Architectural Committee</u>	36
ARTICLE XII: ANNEXATION OF ADDITIONAL PROPERTIES		37
12.1	<u>By Grantor</u>	37
12.2	<u>By Association</u>	37
12.3	<u>Rights and Obligations of Owners of Annexed Tracts</u>	37
12.4	<u>Method of Annexation</u>	37
12.5	<u>Denegation</u>	38
ARTICLE XIII: EASEMENTS		38
13.1	<u>Easements of Encroachment</u>	38
13.2	<u>Easements of Access</u>	38
13.3	<u>Drainage and Utility Easements</u>	38
	13.3.1 <u>Improvement of Drainage and Utility Easement Areas</u>	39
	13.3.2 <u>Estate Lot Easements</u>	39

13.4	<u>Rights and Duties Concerning Utility Easements</u>	39
13.5	<u>Driveway Easements</u>	39
13.6	<u>Disputes as to Sharing of Costs</u>	40
13.7	<u>General Landscape Easement</u>	40
13.8	<u>Overhang Easement</u>	40
13.9	<u>Maintenance and Use Easement Between Walls and Lot Lines</u>	40
13.10	<u>Pressurized Irrigation System Easements</u>	40
ARTICLE XIV: BANBURY GOLF CLUB		41
14.1	<u>Access to BGC</u>	41
14.2	<u>Easement for Golf Balls</u>	41
14.3	<u>Easement in Favor of BGC</u>	41
14.4	<u>Golf Course Easements</u>	41
14.5	<u>Drainage Easements</u>	41
14.6	<u>Modifications to Adjacent Golf Course Facilities</u>	42
14.7	<u>Golf Course and Clubhouse Facilities</u>	42
14.7.1	<u>Disclaimer</u>	42
14.7.2	<u>No Warranties</u>	42
14.7.3	<u>Golf Course</u>	43
14.7.4	<u>Golf Course Layout</u>	43
14.7.5	<u>Approval</u>	43
ARTICLE XV: MISCELLANEOUS		43
15.1	<u>Banbury Meadows Wildlife Habitat and Nature Park</u>	43
15.2	<u>Term</u>	43
15.3	<u>Amendment</u>	44
15.3.1	<u>By Grantor</u>	44
15.3.2	<u>By Owners</u>	44
15.3.3	<u>By Board of Directors</u>	45
15.3.4	<u>Effect of Amendment</u>	45
15.4	<u>Mortgage Protection</u>	45
15.5	<u>Notices</u>	45
15.6	<u>Enforcement and Non-Waiver</u>	48
15.6.1	<u>Violations and Nuisances</u>	48
15.6.2	<u>Violation of Law</u>	48
15.6.3	<u>Authority to Enforce</u>	48
15.6.4	<u>Methods of Enforcement</u>	48
15.6.5	<u>Limitations on Enforcement</u>	49
15.6.6	<u>Fees and Costs</u>	50
15.6.7	<u>Failure to Enforce</u>	50
15.6.8	<u>Remedies Cumulative</u>	50
15.6.9	<u>Non-Waiver</u>	50
15.7	<u>Interpretation</u>	50
15.7.1	<u>Restrictions Construed Together</u>	50
15.7.2	<u>Restrictions Severable</u>	50
15.7.3	<u>Singular Includes Plural</u>	51
15.7.4	<u>Captions</u>	51
15.8	<u>Successors and Assigns</u>	51

15.9	<u>Owner's Acknowledgments</u>51
15.10	<u>Grantor's Discretion</u> 51
15.11	<u>Water Rights Reserved</u>51
15.12	<u>Written Approval Required</u> 51

PATIO HOMES

1.	Patio Home Lots.....	52
1.1	Patio Home Unit Duplexes.....	52
1.2	Patio Home Zero Lot Line Party Walls.....	52
1.2.1	General Rules of Law.....	52
1.2.2	Sharing of Repair and Maintenance.....	52
1.2.3	Destruction By Fire, Casualty, Negligent or Willful Acts.....	52
1.2.4	Utilities.....	53
2.	Banbury Meadows Patio Homeowners' Association.....	53
	Management Powers and Duties.....	53
	Members of PHA.....	53
	Voting in the PHA.....	53
	Class A Members.....	53
	Class B Member.....	53
	Annual Meetings of PHA.....	54
	Special Meetings.....	54
	Quorum and Officers of Meetings.....	54
	Powers and Duties.....	54
	Operation and Maintenance of Common Area.....	55
	Maintenance of Patio Home Lots and Exteriors.....	55
	Taxes and Assessments.....	55
	Water and other Utilities.....	55
	Patio Home Lot Assessments.....	55

EXHIBITS

- EXHIBIT A: LEGAL DESCRIPTION OF PROPERTY
- EXHIBIT B: LEGAL DESCRIPTION OF BANBURY MEADOWS WILDLIFE HABITAT AND NATURE PARK
- EXHIBIT C: GENERAL DEPICTION OF BANBURY MEADOWS SUBDIVISION TRACTS
- EXHIBIT D: LEGAL DESCRIPTION OF BANBURY GOLF CLUB

MASTER
DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
BANBURY MEADOWS SUBDIVISION

THIS MASTER DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR BANBURY MEADOWS SUBDIVISION is made effective as of the 16th day of April, 1999, by Hoff Companies, Inc. ("Grantor and "Class B Member") and Banbury Meadows Homeowners' Association, Inc., an Idaho non-profit corporation ("Master Association"). *[Amended by Fifth Supplement 7/23/2004]*

ARTICLE I: RECITALS

1.1 Property Covered. The property subject to this Master Declaration of Covenants, Conditions and Restrictions for Banbury Meadows Subdivision ("Master Declaration") is the Property legally described in **Exhibit A** attached hereto and made a part hereof (the "Property"). Grantor intends to develop the Property in stages, which are generally depicted in **Exhibit C** to this Master Declaration. Each development stage shall constitute a Tract, as defined herein. *[Added by First Supplement 6/2/1999]*: The covenants, conditions and restrictions contained in this First Supplement are in addition to those covenants, conditions and restrictions contained in the Master Declaration, except insofar as the covenants, conditions and restrictions of the Master Declaration are hereinafter modified.

1.2 Residential Development. Banbury Meadows Subdivision is a residential development, which Grantor currently intends to develop in accordance with existing development approvals obtained from Eagle City and documented in Eagle City files or any other development plan(s) for which Grantor may from time to time obtain approval. Certain portions of the Property may be developed for quality detached single-family residential homes, townhomes and patio homes. The Property may contain parcels of Common Area, including but not limited to streams and canals, public and/or private open space, park areas, landscaping, wildlife habitat, recreational facilities, private streets, drives, and other amenities and facilities. Any development plans or schemes for the Property in existence prior to or following the effective date of this Master Declaration are subject to change at any time by Grantor, and impose no obligation on Grantor as to how the Property is to be developed or improved. *[Added by First Supplement 6/2/1999]*: The First Supplement Property is a residential development to be developed in accordance with existing development approvals obtained from the City of Eagle, or any other development plan(s) which may from time to time be approved.

1.3 Purpose of Master Declaration. The purpose of this Master Declaration is to set forth the basic restrictions, covenants, limitations, easements, conditions and equitable servitudes (collectively "Restrictions") that will apply to the entire development and use of all portions of the Property. The Restrictions are designed to preserve the Property's value, desirability and attractiveness, to ensure a well integrated, high-quality development, and to guarantee adequate maintenance of the Common Area, and the Improvements located thereon in a cost effective and administratively efficient manner. *[Added by First Supplement 6/2/1999]*: The purpose of this First Supplement is to designate the First Supplement Property as a Tract under the Master Declaration, to designate and provide for management of Common Area, to include the Owners of Building Lots in the Master Association, and to set forth other terms and conditions which are uniquely suited for the Improvements to be constructed upon the First Supplement Property. This First Supplement further grants certain rights to Starwood of Eagle, Inc., an Idaho corporation ("Starwood"), and its successors and assigns, in contemplation of its development and operation of the First Supplement Property.

ARTICLE II: DECLARATION

Grantor hereby declares that the Property, and each lot, parcel or portion thereof, is and/or shall be held, sold, conveyed, encumbered, hypothecated, leased, used, occupied and improved subject to the following terms, covenants, conditions, easements and restrictions, all of which are declared and agreed to be in furtherance of a general plan for the protection, maintenance,

subdivision, improvement and sale of the Property, and to enhance the value, desirability and attractiveness of the Property. The terms, covenants, conditions, easements and restrictions set forth herein: shall run with the land constituting the Property, and with each estate therein, and shall be binding upon all persons having or acquiring any right, title or interest in the Property or any lot, parcel or portion thereof; shall inure to the benefit of every lot, parcel or portion of the Property and any interest therein; and should inure to the benefit of and be binding upon Grantor, Grantor's successors in interest, and each grantee or Owner and such grantee's or Owner's, respective successors in interest, and may be enforced by Grantor, by any Owner or such Owner's successors in interest, or by the Master Association or any Local Association. *[Added by First Supplement 6/2/1999]*: The First Supplement Property and each Building Lot, parcel or portion is a part of the Property as that term is defined in the Master Declaration, and is and/or shall be held, sold, conveyed, encumbered, hypothecated, leased, used, occupied and improved subject to all of the covenants, conditions, easements, restrictions, and all provisions of the Master Declaration and this First Supplement. *[Added by Second Supplement 7/26/1999]*: The property contained in the Second Supplement Property, and each building lot, parcel or portion thereof is a part of the Property as that term is defined in the Master Declaration, and is and/or shall be held, sold, conveyed, encumbered, hypothecated, leased, used, occupied and improved subject to the covenants, conditions and restrictions, and all provisions of the Master Declaration and this Second Supplement. The Second Supplement Property is generally designated as Tract 2 in Exhibit C to the Master Declaration. *[Added by Third Supplement 5/25/2000]*: The property described as the "Third Supplement Property" shall be held, sold, conveyed and be subject to the Declaration and the Third Supplement to the Master Declaration. *[Added by Fourth Supplement 1/25/2002]*: The property described as the "Fourth Supplemental Property," shall be held, sold, conveyed and be subject to the Declaration and the Fourth supplement to the Master Declaration...The provisions set forth on the Fourth Supplement shall control and prevail upon any conflicting provisions contained in the Declaration. *[Added by the Fifth Supplement 7/23/2004]*: ...the property described as the "Fifth Supplemental Property," shall be held, sold, conveyed and be subject to the Declaration and the Fifth supplement to the Master Declaration. The provisions set forth on this Fifth Supplement shall control and prevail upon any conflicting provisions contained in the Declaration. *[Added by Sixth Supplement 5/12/2005]*: ...the "Sixth Supplemental Property," shall be held, sold, conveyed and be subject to the Declaration and the Sixth Supplement to the Master Declaration... The provisions set forth on this Sixth Supplement shall control and prevail upon any conflicting provisions contained in the Declaration. *[Added by Seventh Supplement 10/4/2005]*: ...the property described as the "Seventh Supplemental Property," shall be held, sold, conveyed and be subject to the Declaration and the Seventh Supplement to the Master Declaration...The provisions set forth on this Seventh Supplement shall control and prevail upon any conflicting provisions contained in the Declaration.

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

ARTICLE III: DEFINITIONS

3.1 "Architectural Committee" shall mean the committee created by the Grantor or an Association pursuant to Article XI hereof.

3.2 "Articles" shall mean the Articles of Incorporation of an Association or other organizational or charter documents of an Association.

3.3 "Assessments" shall mean those payments required of Owners, Master Association Members, or Local Association Members, including Regular, Special and Limited Assessments of any Association as further defined in this Master Declaration.

3.4 "Association" shall mean the Master Association and/or a Local Association, whichever is appropriate in the context.

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

3.6 "Board" shall mean the Board of Directors or other governing board or individual, if applicable, of an Association.

3.7 "Building Lot" shall mean one or more lots within a Tract as specified or shown on any Plat and/or by Supplemental Declaration, upon which Improvements may be constructed. The term "Building Lot" shall include single family residential lots, but shall not include the Common Area. *[Added by the Third Supplement 5/25/2000]:* The following lots shall be referred to as "Estate Lots": Lots 13 through 16 Block 28 and Lots 12 through 19 Block 29. When a single family residence is constructed on two or more Estate Lots, the Estate Lots on which the single family residence under common ownership is constructed shall be deemed ONE lot for the limited purpose of the Uniform Building Code. With respect to voting rights and assessments, each of the combined lots shall retain the individual rights and burdens.

3.8 "Bylaws" shall mean the Bylaws of an Association.

3.9 "Common Area" shall mean any or all parcels of Banbury Meadows Common Area or Local Common Area, whichever is appropriate in the context, and shall include, without limitation, all such parcels that are designated on any recorded plat for all or any portion of the property described in **Exhibit A** as private streets or drives, common open space, common landscaped areas, and waterways.

3.10 "Declaration" shall mean this Master Declaration as it may be amended from time to time.

3.11 "Grantor" shall mean Banbury Meadows, LLC or Hoff Companies, Inc., or its successor in interest, or any person or entity to whom the rights under this Declaration are expressly transferred by Hoff Companies, Inc. or its successor.

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

3.12 "Limited Assessment" shall mean a charge against a particular Owner and such Owner's Building Lot, directly attributable to the Owner, equal to the cost incurred by the Master Association or Local Association for corrective action performed pursuant to the provisions of this Master Declaration or any Supplemental Declaration, including interest thereon as provided in this Master Declaration or a Supplemental Declaration.

3.13 "Local Association" shall mean any profit or not-for-profit Idaho corporation or unincorporated association, or the successors of any of them, organized and established pursuant to the terms of this Master Declaration or a Supplemental Declaration by Grantor.

3.14 "Local Association Board" shall mean the duly elected and qualified Board of Directors, or other governing board or individual, if applicable, of a Local Association.

3.15 "Local Common Area" shall mean all real property in which a Local Association holds an interest or which is held or maintained for the mutual use and benefit of such Local Association and its Members Local Common Area may be established from time to time by Grantor on any portion of the Property by describing such an area on a recorded Plat, by granting or reserving it in a deed or other instrument, or by designating it as such in this Master Declaration or in any Supplemental Declaration. Local Common Area may include easement and/or license rights.

3.16 "Master Association" shall mean the Idaho profit or non-profit corporation, its successors and assigns, established by Grantor to exercise the powers and to carry out the duties set forth in this Master Declaration or any Supplemental Declaration. Grantor shall have the power, in its discretion, to name the Master Association the "Banbury Meadows Homeowners' Association, Inc.", or any similar name which fairly reflects its purpose.

3.17 "Member" shall mean each person or entity holding a membership in the Master Association. Where specific reference or the context so indicates it shall also mean persons or entities holding membership in a Local Association.

3.18 "Banbury Meadows Common Area" shall mean all real property in which the Master Association holds an interest or which is held or maintained, permanently or temporarily, for the common use, enjoyment and benefit of the entire Banbury Meadows Subdivision and each Owner therein. Banbury Meadows Common Area may be established from time to time by Grantor on any portion of the Property by describing it on a plat, by granting or reserving it in a deed or other instrument, or by designating it pursuant to this Master Declaration or any Supplemental Declaration. Banbury Meadows Common Area is to be distinguished from Local Common Area, which may or may not allow entry and use by those Owners who are not Members of a Local Association or who are not Owners within a particular Tract. Banbury Common Area may include easement and/or license rights.

3.20 "Banbury Meadows Subdivision" shall mean the Property.

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

3.22 "Person" shall mean any individual, partnership, corporation or other legal entity.

3.23 "Plat" shall mean any subdivision plat covering any portion of the Property as recorded at the office of the County Recorder, Ada County, Idaho, as the same may be amended by duly recorded amendments thereof.

3.24 "Property" shall mean those portions of the Property described on **Exhibit A** attached hereto and incorporated herein by this reference, including each lot, parcel and portion thereof and interest therein, including all water rights associated with or appurtenant to such property.

3.25 "Regular Assessment" shall mean the portion of the cost of maintaining improving, repairing, managing and operating the Common areas and all improvements located thereon, and the other costs of an Association which is to be levied against the Property of and paid by each Owner to the Master Association, or applicable Local Association, pursuant to the terms hereof or the terms of this Master Declaration or a Supplemental Declaration.

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

3.27 "Supplemental Declaration" shall mean any supplemental declaration including additional covenants, conditions and restrictions that might be adopted with respect to any portion of the Property.

3.28 "Tract" shall mean a defined portion of the Property within, which the contemplated development involves a common use or compatible uses, and which may have been designed as a Tract by recorded Supplemental Declaration. Each Tract shall contain one or more Building Lots, and may be managed to the extent permitted herein by a Local Association subject to Supplemental Declarations relating to each Tract. Each Tract is generally depicted on **Exhibit C**, attached hereto and made a part hereof.

3.29 "Visible Above Ground". With respect to any given object, such object is or would be visible to a person six feet tall standing on an assumed floor elevation two feet (2') above the surface of any neighboring property in the area involved, assuming that the property had an elevation equal to the highest elevation of the ground surface of that portion of the area upon which the object is located.

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

3.31 "Banbury Meadows Wildlife Habitat and Nature Park" shall mean all of that certain real property within Banbury Meadows Subdivision more particularly described in **Exhibit B**.

ARTICLE IV: GENERAL AND SPECIFIC RESTRICTIONS

[Added by First Supplement 6/2/1999]: Until such time as an occupancy permit has been issued for all Building Lots in the Supplemental Property and each dwelling unit is occupied, no Person, including Grantor, the Master Association and Star wood, shall take any act or exercise any right reserved (including any right reserved by, in or through the Master Declaration) with regard to the First Supplement Property that would impose an additional burden or obligation on the First Supplement Property except as may be mutually agreed upon by Grantor, the Master Association and Starwood. A non-exhaustive list of acts or reservations herein restricted, includes:

- (i) Dedicate or transfer any portion of the First Supplement Property to any public agency, authority or utility, or otherwise to the general public or for the general public or for any public purpose whatsoever.
- (ii) Amend the Master Declaration if such amendment imposes an additional burden or obligation on the First Supplement Property.
- (iii) Amend the First Supplement.
- (iv) Record, modify or vacate any plat for or including the First Supplement Property.
- (v) Subdivide or resubdivide any portion of the First Supplement Property.
- (vi) Grant, establish and/or reserve any license, easement, reservation or right-of-way on any portion of the Common Area.
- (vii) Use any structure on the First Supplement Property as a model home or real estate sales or leasing office.
- (viii) Create any Local Association for the First Supplement Property.

4.1 Structures - Generally. All structures are to be designed, constructed and used in such a manner as to promote compatibility between the types of use contemplated by this Master Declaration. *[Added by First supplement 6/2/1999]:* The following standards and restrictions shall be applicable to the construction of residential structures on the First Supplement Property:

- (i) No residential structures shall be built to a height greater than twenty-eighty (28) feet (as measured from the natural contour of the surrounding area).
- (ii) No residential structures shall contain less than fourteen hundred (1400) square feet of building space, excluding garage space.
- (iii) Two-story residential structures shall be permitted on any Building Lot located in the First Supplemental Property.

