

188 - 2583

89-18330

BLACK BUTTE RANCH MASTER DESIGN

April 1989

FINAL

MASTER DESIGN TABLE OF CONTENTS

SECTION 1. Definitions.....	1
1.1 "Architectural Review Committee".....	1
1.2 "Assessment".....	1
1.3 "Black Butte Ranch" or the "Ranch".....	1
1.4 "Black Butte Ranch Association" or the "Association".....	2
1.5 "Black Butte Ranch Declaration".....	2
1.6 "Black Butte Ranch Master Design" and "Master Design".....	2
1.7 "Black Butte Ranch Rules and Regulations" or the "Ranch Rules and Regulations".....	2
1.8 "Board of Directors" or the "Board".....	2
1.9 "Business Invitee".....	2
1.10 "Common Area".....	2
1.11 "Condominium Association".....	2
1.12 "Condominium".....	2
1.13 "General Fund".....	2
1.14 "Guest".....	2
1.15 "Lessee".....	3
1.16 "Lot".....	3
1.17 "Manager of Black Butte Ranch" or "Manager".....	3
1.18 "Private Area".....	3
1.19 "Private Way".....	3
1.20 "Resort Properties".....	3
1.21 "Section".....	3
1.22 "Semi-Public Recreational or Service Area".....	3
1.23 "Special Use Area".....	3
1.24 "Unit".....	3
1.25 "Unit Owner" or "Owner".....	3
SECTION 2. Subjection of Property to the Master Design.....	3
2.1 Filing of Declaration.....	4
2.2 State in Lease.....	4
SECTION 3. Land Classifications and Uses Within Black Butte Ranch.....	4
3.1 Classifications.....	4
3.2 Private Areas.....	4
3.3 Private Ways.....	4
3.4 Common Areas.....	5
3.5 Semi-Public Recreational or Service Areas.....	5
3.6 Special Use Areas.....	5
3.7 Resort Properties. The term "Resort Properties".....	5
3.8 General Restrictions.....	6
SECTION 4. Consolidation of Lots Within Private Areas.....	6
SECTION 5. Black Butte Ranch Rules and Regulations.....	6

SECTION 6. Assessments and General Fund	7
6.1 Imposition of Regular Assessments	7
6.2 Prepayment of Regular Assessment	8
6.3 Increase in Maximum Amount of Assessment	8
6.4 Special Assessments	8
6.5 Joint and Several Liability	8
6.6 General Fund	8
6.7 Annual Accounting	9
SECTION 7. Black Butte Ranch Association	9
7.1 Powers of the Association	10
7.2 Limitation of Liability	11
SECTION 8. Architectural Review Committee	11
8.1 Function of Architectural Review Committee	11
8.2 Scope of Authority	11
8.3 Members	11
8.4 Action	11
8.5 Duties and Rules	11
8.6 Non-Waiver or Precedent	11
8.7 Liabilities	12
8.8 Right of Appeal	12
SECTION 9. Enforcement	12
9.1 General Provision	12
9.2 Violation of a Black Butte Ranch Declaration by a Non-Qualifying Improvement	12
9.3 Default in Payment of Assessments and Charges	12
9.4 Right of Entry	12
9.5 Interest	13
9.6 Expenses and Attorneys' Fees	13
9.7 Non-Exclusiveness and Accumulation of Remedies	13
SECTION 10. Timeshare Plans	13
SECTION 11. Purchase of Developer's Areas by Black Butte Ranch Association	14
SECTION 12. Miscellaneous Provisions	15
12.1 Amendment and Repeal	15
12.2 Joint Owners	15
12.3 Construction	16
12.4 Disclaimer	16
12.5 Termination	16
12.6 Notices	16

BLACK BUTTE RANCH MASTER DESIGN

A statement of the Design formulated for and utilized in the development, ownership, and maintenance of Black Butte Ranch, containing, among other things, provisions which subject property to certain easements, restrictions, assessments, penalties, and liens.

OBJECTIVES

Black Butte Ranch is a residential development of 1,830 acres encompassing approximately 1250 homesites located in western Deschutes County, Oregon. The Ranch was created and designed as a community which would provide an unusually attractive environment for permanent and vacation homes. The Ranch was originally organized under the unified development plan embodied in this declaration. While the original conceptual design for the Ranch envisioned a number of separate geographically-defined sections retaining their organizational identity within the confines of Black Butte Ranch, the fully developed reality is a unified entity embracing the individual sections in a single planned development. While each of the subsections within the Ranch has followed its own development plan with its own restrictions embodied in a separate recorded declaration, such declarations and the restrictions they contain have been incorporated in and supplemented by those restrictions which govern the Ranch itself. Exceptions to the above exist with respect to the Lodge, Country House, and Golf Course Condominium sections whose organizational identity has been retained and whose provisions serve to supplement those governing the Ranch. Black Butte Ranch property owners enjoy distinct advantages on an economic basis through the sharing of the costs related to the private ways, common areas, and recreational and service facilities, which are and will remain available for use by all property owners, their lessees and guests. By providing and enforcing high standards for the improvement and maintenance of private and non-private areas within the Ranch, the Black Butte Ranch Association intends to ensure that private property within the Ranch will maintain and return maximum value for those who purchase it. The Association has assumed overall responsibility for the administration of the Ranch. Title to all private ways, common areas, special use areas, semi-public recreational facilities, semi-public service facilities, and resort properties is presently vested in the Association or in its subsidiary, the Black Butte Ranch Corporation.

The following is the Black Butte Ranch Master Design:

SECTION 1. Definitions When used herein, the following terms shall have the following meanings:

- 1.1 "Architectural Review Committee" shall mean the committee appointed pursuant to the provisions of Section 8 herein.
- 1.2 "Assessment" shall mean a regular or special assessment, as the case may be, imposed in accordance with the provisions of Section 6 herein.
- 1.3 "Black Butte Ranch" or the "Ranch" shall mean that real property described in the records of deeds of Deschutes County, Oregon together with any additional real property which may be acquired by the Black Butte Ranch Association and with respect to which the Association

has filed a declaration in the records of deeds of Deschutes County, Oregon providing that such property shall be a part of Black Butte Ranch.

- 1.4 "Black Butte Ranch Association" or the "Association" shall mean the association organized as described in Section 7 herein.
- 1.5 "Black Butte Ranch Declaration" or "Ranch Declaration" shall mean any instrument which subjects an area within Black Butte Ranch to the Master Design.
- 1.6 "Black Butte Ranch Master Design" and "Master Design" shall mean this instrument, together with any amendments or supplements thereto.
- 1.7 "Black Butte Ranch Rules and Regulations" or the "Ranch Rules and Regulations" shall mean the rules and regulations adopted as provided in Section 5 herein.
- 1.8 "Board of Directors" or the "Board" shall mean the duly elected Board of Directors of the Black Butte Ranch Association.
- 1.9 "Business Invitee" shall mean a person who is in Black Butte Ranch for a business purpose of either the invitee or his invitor with the permission or pursuant to the invitation of an owner, lessee, the Black Butte Ranch Association, or its subsidiary, the Black Butte Ranch Corporation. The rights, obligations, and characteristics of this class of visitors are further defined in the Black Butte Ranch Rules and Regulations.
- 1.10 "Common Area" shall mean any area which is designated as such in a Black Butte Ranch Declaration or in the plat of a section along with any improvements constructed thereon.
- 1.11 "Condominium Association" shall mean any association of owners of Condominiums as defined in Section 1.12.
- 1.12 "Condominium" shall mean any property in Black Butte Ranch submitted to unit ownership in the manner provided by the Oregon Revised Statutes relating to Condominiums, as such statutes may be amended.
- 1.13 "General Fund" shall mean the fund established pursuant to Section 6 herein.
- 1.14 "Guest" shall mean any person other than a Business Invitee who is in Black Butte Ranch at the invitation of an owner or lessee at Black Butte Ranch. The term "Guest", as used herein and further defined in the Black Butte Ranch Rules and Regulations, shall include two distinct categories of visitors to Black Butte Ranch:
 - a. "Guests of Owners and Lessees in Residence" shall mean those visitors to Black Butte Ranch pursuant to the invitation or with the permission of an Owner or Lessee whose presence on the Ranch coincides with that of said Owner or Lessee.

- b. "Guests of Owners and Lessees not in Residence" shall mean those visitors to Black Butte Ranch who are present on the Ranch pursuant to the invitation or with the permission of an Owner or Lessee while said Owner or Lessee is not in residence.
- 1.15 "Lessee" shall mean that person or persons occupying a unit in Black Butte Ranch subject to a formal, written lease agreement, the duration of which is at least 30 calendar days.
- 1.16 "Lot" shall mean each lot described in any plat of a section which is designated as a private area together with any single family dwelling constructed thereon. If in any case a lot owner shall have consolidated a lot or portion thereof with another lot in the manner set forth in Section 4 herein, then the area consolidated shall be considered one lot.
- 1.17 "Manager of Black Butte Ranch" or "Manager" shall mean the Black Butte Ranch Association or its designated representative.
- 1.18 "Private Area" shall mean any area which is designated as such in a Black Butte Ranch Declaration or in the plat of a section.
- 1.19 "Private Way" shall mean any area which is designated as such in the plat of a section or in a Black Butte Ranch Declaration or which is dedicated to such use by the Black Butte Ranch Association.
- 1.20 "Resort Properties" shall mean those properties referred to in Section 3.7 herein.
- 1.21 "Section" shall mean any area subjected to the Master Design in a Ranch Declaration which area contains private areas for residential use, together with any areas which may be annexed thereto.
- 1.22 "Semi-Public Recreational or Service Area" shall mean any area devoted to a recreational or service facility which is made available for use by the public as well as by the owners of Black Butte Ranch, their lessees and guests, as provided in Section 3.5 herein.
- 1.23 "Special Use Area" shall mean any area designated by the Black Butte Ranch Association for the benefit of the owners of Black Butte Ranch as provided in Section 3.6 herein.
- 1.24 "Unit" shall mean each lot described in any plat of a section which is designated as a private area, any condominium within a section, and any single family dwelling contained within a section.
- 1.25 "Unit Owner" or "Owner" shall mean the person or persons who hold legal title to any unit unless provision is made in the instrument creating a section that a lessee or other person entitled to possession of a unit shall be the unit owner, in which case the person so designated shall be the unit owner. The term "Owner" shall include, for most purposes, the immediate family of such "Owner" as defined in the Black Butte Ranch Rules and Regulations.

SECTION 2. Subjection of Property to the Master Design

Property within Black Butte Ranch may be subjected to the Master Design by either of the following methods:

- 2.1 **Filing of Declaration.** The Association may file a declaration in the records of deeds of Deschutes County, Oregon, providing that a particular area shall be subject to the Master Design, or;
- 2.2 **State in Lease.** The Association may state in any lease that an area described in the lease shall be subject to the Master Design. Property subjected to the Master Design pursuant to a lease shall be withdrawn from the Master Design automatically upon termination or expiration of the lease pursuant to which the property was subjected to the Master Design except to the extent that provision to the contrary is made in such lease.

SECTION 3. Land Classifications and Uses Within Black Butte Ranch.

- 3.1 **Classifications.** Land classifications within areas subjected to the Master Design include private ways, private areas, common areas, special use areas, semi-public recreational or service areas, and resort properties. The Black Butte Ranch Association or its subsidiary, the Black Butte Ranch Corporation, shall hold and retain title to the private ways, common areas, special use areas, semi-public recreational or service areas, and resort properties subject, however, to the right of the owners of Black Butte Ranch, their lessees and guests to use such areas as herein provided. Those certain areas designated as semi-public recreational or service areas or resort properties shall be made available for use by the public at such times and under such conditions as shall be established by the Board of Directors of the Black Butte Ranch Association.
- 3.2 **Private Areas.** Restrictions, rules, and regulations governing the use of private areas within a particular homesite section are set forth in the Black Butte Ranch Declaration used to create the section. By accepting a deed or lease to a private area within a section, the grantor is deemed to have covenanted that he will use and permit the use of the property only in accordance with, and that he will abide by and cause all those who come upon his premises to abide by, the restrictions, covenants and conditions contained in the Master Design and in the Ranch Declaration creating the section and in the rules and regulations promulgated hereunder; that he will pay to the Association all amounts provided for in the Master Design and such Black Butte Ranch Declaration; and that his property shall be subject to a lien or liens as provided in such instruments. For the protection of all owners, their lessees and guests, the Association shall be generally responsible for the enforcement of such restrictions, covenants, conditions, rules and regulations.
- 3.3 **Private Ways.** Each owner is hereby granted a non-exclusive easement to use private ways for the purposes of walking or traveling thereon by appropriate means. Each owner may permit his lessees, guests, and business invitees to use the private ways for such purposes. The easement herein granted shall be appurtenant to and assignable with the unit with respect to which it is granted, but shall not otherwise be assignable. Use of private ways shall be subject to the Black Butte Ranch Rules and Regulations. The Association may also grant free access on private ways to police, fire and other public officials, to employees of utility companies serving the Ranch, and to such other persons to whom the Association reasonably believes access should be given for the benefit of the owners. The Board, in its discretion, may dedicate private ways to the public. The Board shall be

deemed to have dedicated such ways to the public only if it shall file in the records of Deschutes County, Oregon, an instrument clearly evidencing its intention to dedicate such ways to the public.

- 3.4 **Common Areas.** Each owner is hereby granted a non-exclusive easement to use common areas for such recreational purposes as may be permitted by the Ranch Rules and Regulations and in the manner permitted therein. Each owner may permit his lessees and guests to use common areas for such purposes and in such manner. Common areas shall not be platted or otherwise divided into parcels for residential use. The Board may develop special recreational or service facilities on portions of the common areas for the general use and benefit of all owners, their lessees and guests. The Board may from time to time permit the use of designated portions of common areas for temporary recreational or service uses (as, for example, maintaining a volley ball or badminton court) provided that such permission shall be revocable at any time. The easement and rights herein granted shall be appurtenant to and assignable with the unit in respect of which it is granted, but shall not otherwise be assignable. The Board may, in its discretion, use common areas for the purpose of the location of utilities thereon. The Board may bar any unit owner, members of his family, his lessees, and his guests from using common areas and the improvements thereon during periods in which the owner's assessments are delinquent.
- 3.5 **Semi-Public Recreational or Service Areas.** The Association has determined that it is possible to make certain kinds of recreational and service facilities available to the owners on an economic basis only if the general public is allowed to use such facilities on a fee basis. Therefore, the Board may subject areas to the Master Design which will constitute "semi-public recreational or service areas" if each of the following conditions is met:
- (a) Provision must be made for the use of the facility by the owners, their lessees and guests in the manner permitted by the Ranch Rules and Regulations.
 - (b) Fees charged owners, their lessees and guests for the use of the facility shall be no higher and may be less than those charged members of the public for an equivalent use or service.
 - (c) The Board may, in its discretion, convert any semi-public recreational or service area into a common area on either a permanent or temporary basis at any time it deems this to be to the general benefit of the owners.
- 3.6 **Special Use Areas.** The Board may subject certain areas of the Ranch to the Master Design which will constitute "special use areas." From time to time, the Board may lease to or otherwise permit the use of such areas by third parties if it deems the arrangement to be to the advantage of the owners, even if the intended use is of a nature which might require that the owners be barred from such areas while they are so being used. As an example, the dedication of certain areas within the Ranch to uses normal to or traditional in Central Oregon, such as the grazing of cattle and horses, may serve to enhance the attractiveness and quality of the Ranch.
- 3.7 **Resort Properties.** The term "Resort Properties" shall mean all those properties purchased by Black Butte Ranch Corporation from the developer of Black Butte Ranch in that certain purchase transaction referred to in Section 11 hereof together with any real property located within Black Butte Ranch which is owned by the Black Butte Ranch Association, but which

has not been dedicated as a private way, common area, special use area, or semi-public recreational or service area.

- 3.8 **General Restrictions.** No activity will be permitted on private ways, common areas, special use areas, semi-public recreational or service areas, or resort properties which will be unreasonably injurious to land or vegetation. There shall be no discharge of firearms or fireworks within the boundaries of the Ranch. The operation, by any person, not otherwise authorized or directed by the Board, of trail bikes, motorcycles, snowmobiles, and other motorized non-transportation or off-road vehicles is prohibited within the boundaries of the Ranch. No temporary or permanent improvements shall be erected on private ways, common areas, special use areas, semi-public recreational or service areas, or resort properties without the authorization of the Board. The foregoing general restrictions shall not be viewed as all inclusive but may be amended and expanded from time to time as the Association shall deem necessary and appropriate. All such changes shall be incorporated in and disseminated through the Ranch Rules and Regulations.

SECTION 4. Consolidation of Lots Within Private Areas.

Whenever a person shall own all of a lot restricted to single family residence use within a private area (the "basic lot"), together with one or more contiguous lots or contiguous portions thereof, also restricted to single family residential use (the "additional lot" or "additional portion"), and shall wish to consolidate the basic lot and the additional lot or additional portion, he may do so. The consolidation shall be effected by the owner's filing, in the records of deeds of Deschutes County, Oregon, a declaration stating that the two areas are consolidated.

The consolidation provided for in this section shall have the following effects:

- (a) The consolidated areas shall constitute one lot for all purposes under the Master Design and under the Section Declaration for the section in which the consolidated areas are located.
- (b) Only one single family residence may be constructed or maintained on the consolidated areas.
- (c) No residence or other structure may be placed upon the remainder of a lot, a portion of which was consolidated with another lot but which remainder has not been consolidated with another lot, unless the area of such remainder constitutes at least 95 percent of the original area of the lot.
- (d) Areas which have once been consolidated may at no time in the future be partitioned.

SECTION 5. Black Butte Ranch Rules and Regulations.

In the exercise of its powers and in the performance of its obligations pursuant to the Master Design and to any Black Butte Ranch Declaration, the Board of Directors of the Black Butte Ranch Association may adopt, amend or repeal rules and regulations, to be known as the Black Butte Ranch Rules and Regulations to provide for the manner in which private ways, common areas (including special recreational facilities established thereon), semi-public recreational or service areas, resort properties, and any other areas which all owners of Black Butte Ranch, their lessees and guests are entitled to use, shall be used. A petition signed by 5 percent of the owners proposing adoption of a rule or amendment or repeal of an existing rule applying to the above areas must be

considered by the Board. The Board may, at its discretion, either approve, reject, or abstain from acting on the proposals contained in such petition. In the event that the Board does not approve a petition duly and properly submitted, the petitioners may demand a vote of the owners of the Ranch in accordance with the following: upon and pursuant to a second submission of the petition in original form but bearing the signatures of 15 percent of the owners, the Board shall submit the proposals contained in such petition to a vote of all owners. The proposals contained in such petition shall be adopted upon their approval in writing by a majority of the owners who vote with respect to such petition. Such approval shall be valid only where votes shall have been cast by at least one-half of those owners eligible to vote or their duly authorized proxies. To the extent provided for in any Ranch Declaration, the Ranch Rules and Regulations may provide for the manner in which private areas may be used. Adoption, amendment, and repeal procedures for such private area rules and regulations, if any, shall be set forth in such Ranch Declaration.

Black Butte Ranch Rules and Regulations may, among other things, provide for any of the following:

- (a) For speed, parking, and other traffic controls and restrictions upon the types of vehicles which may use private ways.
- (b) For the times and manner in which the spaces within common areas may be used by owners, their lessees and guests.
- (c) For charges for the use of recreational facilities and for services to be supplied by the Association.
- (d) For the control of noise, control of litter, and disposal of trash and for the personal conduct of owners, their lessees and guests, while on the Ranch.
- (e) For the conditions upon which the guests of owners and lessees at the Ranch will be entitled to access to private ways, common areas, and semi-public recreational or service areas and for the terms and conditions upon which guest access passes will be issued.

All rules and regulations must be applicable on a nondiscriminatory basis. However, provisions uniformly applicable to a class of persons shall not be deemed discriminatory if the Association shall have defined the class based on reasonable economic or business considerations such as supervision, security, or the adequacy of facilities and services. The foregoing enumeration is intended to be descriptive and should not be construed to be all-inclusive. A current copy of the Ranch Rules and Regulations shall be kept on file at the principal office of the Association at all times. Such Rules and Regulations shall have the same force and effect as if set forth herein as part of the Master Design. Each unit owner shall be given a copy of such rules and regulations and copies of any changes thereto when made.

SECTION 6. Assessments and General Fund.

- 6.1 **Imposition of Regular Assessments.** The Black Butte Ranch Association shall have the right to impose an assessment against each unit owner, such assessments to be applied uniformly to all units. On or before December 1 of each year, the Board of Directors of the Black Butte Ranch Association shall determine the amount of the assessment to be imposed during the ensuing calendar year and shall notify each person who is then an owner of the amount of the assessment to be imposed for such year. The amount of such assessment may, at the sole discretion of the Board, be increased by up to a maximum of 6 percent above

the amount of the regular assessment imposed during the preceding year. Authorization for any assessment increase in excess of the above maximum must be obtained from the Association's membership utilizing the procedure specified in Section 6.3.

- 6.2. **Prepayment of Regular Assessment.** Any owner who shall pay the assessment to be imposed for all 12 months of the ensuing calendar year prior to January 1 of such year shall be entitled to a discount in the amount of 5 percent of the gross amount assessed for such 12 month period. Assessments which are not so prepaid shall be paid on or before the first day of the month with respect to which they are imposed. In the event that a person shall acquire a unit or his unit shall first become subject to assessment during the course of a calendar month, his first assessment shall come due on the first day of the following month. New owners shall be jointly and severally liable for the payment of any assessments which remain unpaid at the time of their acceptance of legal title to a unit in Black Butte Ranch.
- 6.3. **Increase in Maximum Amount of Assessment.** In the event that the Board shall deem the general fund to be inadequate for the purposes for which it is to be maintained, taking into account the need for reasonable and necessary reserves for major maintenance, replacement of common facilities, depreciation, and contingencies, the annual assessment may be increased above the maximum specified in Section 6.1 provided that such increase shall have been approved in writing by a majority of the owners who vote with respect to such assessment. Such approval shall be valid only where votes shall have been cast by at least one-half of those owners eligible to vote or their duly authorized proxies.
- 6.4. **Special Assessments.** In the event that the Board deems it to be to the advantage of the owners to impose a special assessment to provide funds for a special project or purpose, to repay a loan, or to meet an unanticipated need, it may impose such a special assessment, provided that the amount of the assessment and the purpose for which it will be imposed shall be approved in writing by a majority of the owners who vote with respect to such assessment. Such approval shall be valid only where votes shall have been cast by at least one-half of those owners eligible to vote or their duly authorized proxies. All special assessments shall be applied uniformly to all units. In the event that such an assessment is imposed, the Board shall segregate the same in a special account and shall use the same only for the purposes of such special assessment.
- 6.5. **Joint and Several Liability.** If a unit's ownership is comprised of more than one person, each shall be jointly and severally liable for any and all assessments and charges.
- 6.6. **General Fund.** The Association shall keep all monies which it may collect from assessments other than special assessments together with all other monies which it is required to add to the general fund pursuant to the provisions hereof, or of any Black Butte Ranch Declaration, in a separate fund to be called the "general fund" and shall use the monies in the general fund only for the following purposes:
 - (a) Payment of the cost of acquiring, developing, maintaining, and improving private ways, common areas, recreational and other facilities on common areas and elsewhere, special use areas, and Association-owned semi-public recreational or service areas and resort properties available for use by all of the owners.

- (b) Payment of taxes and assessments levied against private ways, common areas, special use areas, Association-owned semi-public recreational or service areas and resort properties, and the improvements thereon.
- (c) Payment of the cost of providing security patrol, police services, fire prevention and control, utilities, and garbage and trash disposal services, if provided.
- (d) Payment of the cost of insurance, including but not limited to, insurance protecting the Association, its directors, officers, and committees, against liability arising out of their function and activities in the administration of the Ranch.
- (e) Payment of the cost of enforcing the provisions contained in the Master Design, the Black Butte Ranch Rules and Regulations, Architectural Review Committee Rules and Regulations, and the covenants and provisions contained in any Ranch Declaration.
- (f) Payment of the reasonable expenses and fees of the Board, Architectural Review Committee, and such other special committees as shall from time to time be appointed to serve the Association.
- (g) Payment for other services or facilities which the Board deems to be of general benefit to the owners.
- (h) Payment of costs incurred in collecting assessments.
- (i) Payment of any expense reasonably incurred by the Board in carrying out any function for which it has been given responsibility hereunder.

Included among the monies which are to be paid into the general fund are all regular assessments, penalties, fees for access to the Ranch and for the use of recreational or service facilities located on common areas or on Association-owned semi-public recreational or service areas, revenues from leases of special use areas, Architectural Review Committee fees, interest on amounts payable into the general fund, and payments to reimburse the Association for monies expended from the general fund.

- 6.7 **Annual Accounting.** Within a reasonable period of time following the close of each calendar year, the Association shall render to each owner an accounting which shall set forth the amount and nature of all income and all disbursements during such year together with a statement of the assets and liabilities of the Association at the close of such year. The Association shall maintain records of all income and disbursements, which records shall be open to inspection by any owner at any reasonable time during normal business hours.

SECTION 7. Black Butte Ranch Association

The Black Butte Ranch Association was incorporated in 1970 as a nonprofit corporation under the general nonprofit corporation laws of the state of Oregon. The articles of incorporation provide, among other things, that each unit owner in Black Butte Ranch shall be a member of the Association with one vote for each unit owned by him. Where title to a single unit is vested in two or more owners, the owners shall be required to designate in writing to the Association that single owner empowered to exercise the voting right attaching to that unit. Such representation in the Association shall commence, exist, and continue simply by virtue of the member's ownership of

said unit, shall expire automatically upon the termination of such ownership, and need not be separately confirmed or evidenced by any certificate or acceptance of membership.

7.1 **Powers of the Association.** In addition to such other powers as shall be given to or imposed upon it elsewhere in this Master Design or any other Black Butte Ranch Declaration, the Black Butte Ranch Association, acting by and through its Board of Directors, shall have the following powers:

- (a) Construction of such improvements on the private ways, common areas, special use areas, and Association-owned semi-public recreational or service areas and resort properties as it deems will be of benefit to the owners, their lessees and guests.
- (b) Maintenance and improvement of all private ways, common areas, special use areas, Association-owned semi-public recreational or service areas and resort properties, and the improvements thereon.
- (c) Enforcement of all covenants and restrictions contained in this Master Design and in any Ranch declaration.
- (d) Promulgation and enforcement of the Black Butte Ranch Rules and Regulations and the enforcement of both the Architectural Review Committee Rules and Regulations and the decisions rendered by said committee.
- (e) Payment of all ad valorem taxes and assessments imposed on any of the private ways, common areas, special use areas, or Association-owned semi-public recreational or service areas and resort properties within the Ranch.
- (f) Provision of such services to the owners as it shall deem to be of benefit to the owners.
- (g) Procurement and maintenance of property and liability insurance reasonable and necessary to protect the Association's interests in its assets. Such insurance shall also provide appropriate coverage for the directors and officers of the Association while in the performance of their duties on behalf of the owners.
- (h) Collection of assessments, fees, and penalties.
- (i) Fixing of fees for access to the Ranch and for the use of the recreational and service facilities within the common areas and in the Association-owned semi-public recreational or service areas and resort properties and for the collection thereof.
- (j) Upon the determination that there exists on a private area a nuisance or other unattractive or undesirable condition such as a fire hazard, diseased trees, overgrowth of vegetation or the like, which is deemed to be undesirable and not to be in the best interests of the owners generally, the right to request and enforce the correction or removal thereof in accordance with the provisions of paragraph 9.4 hereof.
- (k) In addition to the foregoing, all the other powers granted to nonprofit corporations and to homeowners associations by the Oregon Revised Statutes, as the same may be amended from time to time.

- 7.2 **Limitation of Liability.** The Board shall have sole power to determine for which authorized purposes monies in the general fund shall be spent including the power to determine how much shall be held in reserve. The Association shall indemnify to the fullest extent permitted by the Oregon Business Corporation Act any person who has been made, or threatened to be made, a party to an action, suit, or proceeding, whether civil, criminal, administrative, investigative, or otherwise (including an action, suit, or proceeding by or in the right of the Association), by reason of the fact that the person is or was a director or officer of the Association, or serves or served at the request of the Association as director, or officer, of another corporation, partnership, joint venture, or other enterprise.

SECTION 8. Architectural Review Committee.

- 8.1 **Function of Architectural Review Committee.** The Architectural Review Committee shall exercise the functions for which it is given responsibility in any Black Butte Ranch Declaration and in this Master Design. Generally, this committee will be responsible for the approval of plans and specifications for the development and maintenance of private areas and for the formulation, promulgation and enforcement of rules and regulations governing the use and maintenance of private areas and the improvements thereon.
- 8.2 **Scope of Authority.** The Architectural Review Committee Rules and Regulations shall apply equally to all areas of the Ranch. Prior to any final determination by the Board of Directors to exercise its powers under Sections 7.1 (a) and (b), the Board shall refer the proposed construction or improvement to the Architectural Review Committee for its review and comment. The Architectural Review Committee shall consider the matter at its next regularly scheduled meeting or at a special meeting called for that purpose and shall advise the Board of its recommendation. The opinion of the Architectural Review Committee in such matters shall be advisory only.
- 8.3 **Members.** The Architectural Review Committee shall be appointed by the Board of Directors of the Black Butte Ranch Association. Members may be removed and replaced at any time by the Board. The Association shall keep on file at its principal office a list of the names and addresses of the members of the Architectural Review Committee.
- 8.4 **Action.** The Architectural Review Committee may render its decisions only by written instrument setting forth the committee's actions taken and the reasons therefor.
- 8.5 **Duties and Rules.** The Architectural Review Committee shall consider and act upon all matters properly submitted to it pursuant to the Master Design or any section declaration. In furtherance of this function, the Architectural Review Committee may from time to time adopt, amend and repeal rules and regulations, to be known as the "Architectural Review Committee Rules and Regulations", establishing its operating procedures and detailing, interpreting, and implementing the provisions of the instruments pursuant to which it is charged with responsibility. The Architectural Review Committee may establish a reasonable fee schedule to offset its costs incurred in considering and acting upon matters submitted to it. Such fees shall be paid into the general fund. A current copy of the Architectural Review Committee Rules and Regulations and schedule of fees shall be kept on file at the principal office of the Association at all times. Such rules shall have the same force and effect as if set forth herein as part of the Master Design. Any rule, regulation, or fee adopted by the Architectural Review Committee or any waiver of published rules, regulations, and fees shall be subject to approval by the Board.

- 8.6 **Non-Waiver or Precedent.** Consent by the Architectural Review Committee to any matter proposed to it or within its jurisdiction shall not be deemed to constitute a waiver or precedent impairing its right to withhold approval as to any other matter thereafter proposed or submitted to it for consent.
- 8.7 **Liabilities.** Neither the Architectural Review Committee nor any member thereof shall be liable to any owner or the Association for any damage, loss or prejudice suffered or claimed on account of any action or failure to act of the committee or a member thereof, provided only that the member, in accordance with actual knowledge possessed by him, has acted in good faith.
- 8.8 **Right of Appeal.** All Architectural Review Committee decisions are subject to appeal utilizing the appeal procedure contained in the committee's published Rules and Regulations. The appeal procedure insures that ultimate responsibility for and authority over all Architectural Review Committee decisions rests with the Board who, by majority vote, may confirm, modify, or reverse any such decision thus appealed.

SECTION 9. Enforcement.

- 9.1 **General Provisions.** The Black Butte Ranch Association shall have the right to enforce all covenants, restrictions, conditions, reservations, rules and regulations, liens, and charges now or hereafter imposed by the provisions of the Master Design or any Black Butte Ranch Declaration. Failure to enforce any of the foregoing shall in no event be deemed a waiver of the right to do so thereafter. Any owner shall have the same right of enforcement, provided that such owner shall have given the Association 90 days' advance notice in writing of his intention to commence such an action and, upon the expiration of the notice period, the Association has not commenced its own independent enforcement action.
- 9.2 **Violation of a Black Butte Ranch Declaration by a Non-Qualifying Improvement.** In the event any owner constructs or permits to be constructed on his unit an improvement contrary to the provisions of a Ranch Declaration or the rules and regulations of the Association or the Architectural Review Committee, or in the event that an owner maintains or permits any improvement or condition on his unit contrary to the provisions of a Ranch Declaration or such Rules and Regulations, the Association may, no sooner than 60 days after delivery to such owner of written notice of the violation, enter upon the offending unit and remove the cause of such violation, or alter, repair or change the improvement or condition which is in violation of such declaration, rule, or regulation in such manner as to make it conform thereto. The Association may charge such unit owner for the reasonable cost of the work done by it or performed on its behalf pursuant to this section. Such amounts shall become due and payable upon delivery by the Association to the owner of notice of the amount due, and, upon receipt, shall be paid into the general fund.
- 9.3 **Default in Payment of Assessments and Charges.** Each assessment, charge, or penalty levied or imposed pursuant to the Master Design or any Ranch Declaration, together with interest thereon, shall be a separate, distinct and personal debt and obligation of the owner against whom the assessment or charge is levied or imposed or from whom the amount is due. If the owner fails to pay any such assessment, charge, or penalty or any installment thereof when due, the owner shall be in default and the assessment, charge, or penalty not paid together with interest, costs, and attorneys' fees shall become a lien upon the unit (s) owned by the person from whom the assessment, charge, or penalty is due upon the filing by the Association in the records of mortgages of Deschutes County, Oregon, a notice of lien

setting forth the amount due and a description of the unit (s) against which the lien is imposed.

- 9.4 **Right of Entry.** The Association or any member of the Architectural Review Committee may at any reasonable time, upon reasonable notice, and from time to time at reasonable intervals, enter upon any lot within the Ranch for the purpose of determining whether or not such lot or any improvement thereon is then in compliance with the Master Design or any Ranch Declaration, or the Rules and Regulations of the Association or the Architectural Review Committee. In no event shall such entry be deemed to constitute a trespass or otherwise create any right of action in the owner or occupant of such unit.
- 9.5 **Interest.** Any amount not paid to the Association when due shall bear interest from the date due until paid at the rate of 10 percent per annum.
- 9.6 **Expenses and Attorneys' Fees.** In the event that the Association shall bring any suit or action to enforce any provision contained in the Master Design, in any Ranch Declaration, or in the Rules and Regulations of the Association or the Architectural Review Committee or to collect any money due to it thereunder or to foreclose a lien, the defendant in such suit or action shall pay to the Association all costs and expenses which the Association may incur in connection with such suit or action, including a foreclosure title report, and such amount as the court may determine to be reasonable attorneys' fees therein, including attorneys' fees incurred in connection with any appeal from a decision of the trial court or an intermediate appellate court. The Association shall also be entitled to assess and collect any and all costs incurred incident to the collection process even though no formal action or suit is commenced.
- 9.7 **Non-Exclusiveness and Accumulation of Remedies.** Election by the Association to pursue any remedy shall not prevent concurrent or subsequent exercise of another remedy permitted by law. The remedies provided in the Master Design and in any Ranch Declaration or in the Rules and Regulations of the Association or the Architectural Review Committee are not intended to be exclusive but shall be in addition to all other remedies, including actions for damages or suits for injunctions or specific performance available under applicable law.

SECTION 13. Timeshare Plans.

On or after January 1, 1984, the creation of any timeshare plan with respect to any unit, or any portion thereof, within Black Butte Ranch is prohibited. In the case of any such unit which is subject to a timeshare plan created prior to January 1, 1984, the maximum number of timeshares which may be created with respect thereto may not exceed the total number of timeshares in effect on January 1, 1984.

If a violation of the prohibitions set forth in this Section 10 should occur, the Black Butte Ranch Association is authorized to withhold from each and every owner of a timeshare interest in such property, including their families, lessees and guests, the right to further use and enjoyment of the common areas so long as the violation continues. The Association is further authorized to adopt such rules and regulations concerning timeshare properties as it may deem reasonable and necessary for the enforcement of these provisions. Such rules and regulations may, among other things, require and provide for:

- (a) Registration of each timeshare property created prior to January 1, 1984, on forms provided by the Association together with copies of the timeshare agreement, bylaws, timeshare instruments, or right to use agreements;

- (b) Designation of the owner who is authorized to act on behalf of the timeshare owners;
- (c) A list of the current timeshare owners, the nature of the timeshare interest held by each such owner, and the owners' mailing addresses and telephone numbers;
- (d) Notification of changes in ownership of a timeshare interest;
- (e) Maximum number of persons who may occupy or use the timeshare property at any one time, and;
- (f) Parking or storage of vehicles on the timeshare property.

The terms "timeshare", "timeshare agreement", "timeshare instruments", "timeshare plan", and "timeshare property" shall each have the same meaning herein as that which is set forth for such terms in Section 2 of Chapter 530, Oregon Laws 1983 (H.B. 2573). (Effective January 1, 1984)

SECTION 11. Purchase of Developer's Areas by Black Butte Ranch Association.

The Black Butte Ranch Association, through its wholly owned subsidiary, the Black Butte Ranch Corporation, has purchased from Brooks Resources Corporation, the developer of Black Butte Ranch, all of the real property and facilities belonging to the developer which were located at the Ranch, and were held for use by the developer in the conduct of its business at the Ranch, consisting of the Black Butte Lodge, the Pool Place, the sports shops, the Big Meadow Golf Course and the Glaze Meadow Golf Course along with the related Pro Shop facilities, the General Store, the Utility Systems, merchandise and supply inventories, the leased tennis courts, miscellaneous contracts, trademarks, water rights and certain other assets. In connection with such acquisition, the Association was authorized to do the following:

- (a) Obtain bank loans by the Association or any subsidiary thereof necessary to provide funds for the purchase of the assets so acquired and, in connection therewith, to mortgage the assets so acquired as security for such loans and, if necessary, pledge the shares of the aforementioned subsidiary corporation as further security for such loans;
- (b) Impose a special assessment without further prior approval by the members of the Association to provide the additional funds necessary for the purchase of the assets so acquired;
- (c) Impose, without the further prior approval of the members of the Association, additional special assessments from time to time thereafter, if required, for the sole purpose of satisfying debt service requirements of the Association under the aforementioned bank loans, and;
- (d) Obtain additional short-term revolving credit bank loans by any subsidiary corporation for the purpose of maintaining the working capital requirements of the business operations of such subsidiary.

Approval by the Board of Directors of the Black Butte Ranch Association of any of the foregoing was and shall be subject to the following terms and conditions:

1. The special assessment to provide the additional funds necessary for the purchase of the assets shall be applied uniformly to all units and shall not exceed \$2,000 per unit, a portion of which may be deferred in accordance with terms and conditions approved by the Board. The monies derived therefrom shall not be added to the general fund but shall either be placed in a separate account or transferred to a subsidiary corporation as a contribution to the capital of such subsidiary, in either event, to be used solely for the purpose of applying such funds toward the purchase price of the assets so acquired.
2. Additional special assessments to provide funds necessary to meet debt service requirements shall be applied uniformly to all units. The monies derived therefrom shall not be added to the general fund, but shall be deposited directly with the lender in satisfaction of such debt service requirement. Any amounts collected in excess of that which is necessary to meet such debt service requirement must be placed in a special interest-bearing account to be used solely for the purpose of satisfying a subsequent debt service requirement.

SECTION 12. Miscellaneous Provisions.

- 12.1 **Amendment and Repeal.** Any provision of this Master Design may at any time be changed by the Black Butte Ranch Association by amending, repealing, or adding provisions in accordance with the following procedures:

- (a) The Board of Directors of the Black Butte Ranch Association shall adopt a resolution setting forth the proposed change and directing that it be submitted to a vote of the owners. The owners shall have the same rights of petition relative to amendment of the Master Design as those set forth herein for amendment of the Black Butte Ranch Rules and Regulations.
- (b) Written notice setting forth the proposed change, or a summary of the changes to be effected thereby, shall be given to each owner at least 60 days prior to the time of the meeting at which the proposed change is to be considered.
- (c) At the meeting of the owners at which the proposed change to the Master Design is to be considered, the proposed change shall be submitted to a vote of the owners. The proposed change shall be adopted upon receiving two thirds of the votes cast, whether in person, by written ballot, or by proxy, by all of the owners of the Association eligible to vote on such change.
- (d) Any such change shall become effective only upon the filing in the records of deeds of Deschutes County, Oregon, of a certificate of the secretary of the Association setting forth in full the amendment, repeal, or additional provision approved as provided in this section and certifying that said change has been approved in the manner required herein.

- 12.2 **Joint Owners.** In any case in which two or more persons share the ownership of any unit, regardless of the form of ownership, the responsibility of such persons to comply with the provisions of the Master Design and the Black Butte Ranch declarations shall be joint and several. The vote or consent of any one or more of such persons shall constitute the vote or consent of the entire ownership interests, provided however, that in the event that such persons disagree among themselves as to the manner in which any vote or right of consent held by them shall be exercised with respect to a pending matter, any such person may deliver written notice of such disagreement to the Association and the vote or right of

consent involved shall then be disregarded completely in determining the number of votes or consents given with respect to such matter.

- 12.3 **Construction; Severability; Number; Captions.** The Master Design shall be construed as an entire document to accomplish the purposes detailed in the statement of "OBJECTIVES." Nevertheless, each provision of the Master Design shall be deemed independent and severable, and the invalidity or partial invalidity of any provision shall not affect the validity or enforceability of the remaining part of that or any other provision. As used herein the singular shall include the plural, and the plural the singular. The masculine and neuter shall each include the masculine, feminine and neuter, as the context requires. All captions used herein are intended solely for convenience of reference and shall in no way limit any of the provisions of the Master Design.
- 12.4 **Disclaimer.** The amending and filing of this Master Design shall not be construed to evidence the intention of the Association to become a Planned Community as defined by the Oregon Revised Statutes or to become subject to the provisions applicable to a Planned Community, except only as expressly set forth herein.
- 12.5 **Termination.** This Master Design supersedes in its entirety that certain original Master Design filed in the records of deeds of Deschutes County, Oregon on August 6, 1970. The filing of this Master Design pursuant to the terms of Section 12.1 (d) above shall serve to terminate all authority and effect of said earlier instrument.
- 12.6 **Notices.** Any notice permitted or required by the Master Design or any Black Butte Ranch Declaration may be delivered either personally or by mail. Delivery by mail shall be deemed to have been accomplished 24 hours after the notice has been deposited in the United States mail, with postage prepaid, addressed as follows:

To the Association or the Architectural Review Committee;

Black Butte Ranch Association
P.O. Box 8800
Black Butte Ranch, OR 97759

or to such other address as the Association may designate in the rules and regulations of Black Butte Ranch.

If to a unit owner, at the address given by him at the time of his purchase of a unit or at the address of his unit within Black Butte Ranch.

The address of any person may be changed by him at any time by notice in writing delivered as provided herein.

IN WITNESS WHEREOF, the Black Butte Ranch Association has caused this declaration setting forth the Master Design of Black Butte Ranch to be executed this 13 day of June, 1989.

BLACK BUTTE RANCH ASSOCIATION

By A. C. Bartholomew
Chairman

STATE OF OREGON, County of Deschutes

June 13, 1989

Personally appeared A. C. Bartholomew, who being duly sworn, did say that he is Chairman of the BLACK BUTTE RANCH ASSOCIATION and that the foregoing instrument was signed in behalf of said corporation by authority of its Board of Directors; and he acknowledged said instruments to be its voluntary act and deed. Before me:

Notary Public for Oregon

Walter E. Lane

My commission expires 11-16-92



Black Butte Ranch Master Design

The Black Butte Ranch Master Design dated August 5, 1970 was amended on March 14, 1987, and was revised by amendments approved by the unit owners in accordance with Section 12.1(a) of the Black Butte Ranch Master Design. The results of the consent of the members was announced at the annual meeting of the Association on June 24, 1989. The newly revised Black Butte Ranch Master Design is as follows: The full text of the new Master Design is attached.

I, Starr Reed, Secretary of the Black Butte Ranch Association, hereby certify that the above language sets forth in full the amendments and revisions to the Black Butte Ranch Master Design adopted by at least 75% of the unit owners of Black Butte Ranch on June 24, 1989 in accordance with the provisions of the Black Butte Ranch Master Design in Section 12.1(a) thereof.

Dated: June 27, 1989.

Starr Reed
Starr Reed, Secretary

STATE OF OREGON)

) SS.

County of Deschutes)

On June 27, 1989, personally appeared before me the above named Starr Reed, Secretary of Black Butte Ranch Association, and acknowledged the foregoing instrument to be his voluntary act.



Chloee Reed
Notary Public for Oregon

My Commission Expires: 11/16/92

Max M. M.

198 - 2604

STATE OF OREGON)
COUNTY OF DESCHUTES) ss.

I, MARY SUE PENHOLLOW, COUNTY CLERK AND
RECORDER OF CONVEYANCES, IN AND FOR SAID
COUNTY, DO HEREBY CERTIFY THAT THE WITHIN
INSTRUMENT WAS RECORDED THIS DAY:

89 JUL 26 PM 3:40

MARY SUE PENHOLLOW
COUNTY CLERK

BY D. Behring DEPUTY
NO. 89-18330 FEE 110-
DESCHUTES COUNTY OFFICIAL RECORDS