

AFTER RECORDING PLEASE RETURN TO:  
Ivory Development, LLC  
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Salt Lake City, Utah 84117  
(801) 747-7440

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RANDALL A. COVINGTON  
UTAH COUNTY RECORDER  
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**MASTER  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS,  
AND  
RESERVATION OF EASEMENTS  
FOR THE IVORY RIDGE PROPERTIES, SWIM AND TENNIS CLUB,  
a part of the Ivory Ridge Planned Mixed Use Development**

This Master Declaration of Covenants, Conditions and Restrictions, and Reservation of Easements for Ivory Ridge Properties, Swim and Tennis Club, a Utah planned, mixed use development (the "Master Declaration") is executed by Ivory Development, LLC, of 978 East Woodoak Lane, Salt Lake City, Utah 84117 (the "Developer").

**RECITALS:**

A. Ivory Ridge Commercial is a Utah commercial development, part of the mixed use Ivory Ridge development located in Lehi, Utah developed by Ivory Development, LLC (the "Ivory Ridge Commercial").

A-1. The Declaration of Covenants, Conditions and Restrictions for Ivory Ridge Commercial was or will be recorded in the office of the County Recorder of Utah County, Utah (the "Ivory Ridge Commercial Declaration"). A Plat Map of the Ivory Ridge Commercial project was recorded concurrently with its Declaration.

B. The Lofts at Ivory Ridge Condominium is a Utah live/work condominium community, part of the Ivory Ridge mixed use development located in Lehi, Utah developed by Ivory Development, LLC (the "The Lofts at Ivory Ridge Condominium").

B.1. The Declaration of Condominium for the Lofts at Ivory Ridge Condominium was or will be recorded in the office of the County Recorder of Utah County, Utah (the "Lofts at Ivory Ridge Condominium Declaration"). A Plat Map of the Lofts at Ivory Ridge Condominium project was recorded concurrently with its Declaration.

C. Clubview at Ivory Ridge is a Utah planned residential development of single family residences, part of the mixed use Ivory Ridge development located in Lehi, Utah developed by Ivory Development, LLC (the "Clubview at Ivory Ridge").

C.1. The Declaration of Covenants, Conditions and Restrictions for Clubview at Ivory Ridge was or will be recorded in the office of the County Recorder of Utah County, Utah (the "Clubview at Ivory Ridge Declaration"). A Plat Map of Clubview at Ivory Ridge project was recorded concurrently with its Declaration.

D. Clubview Towns at Ivory Ridge is a Utah planned residential development of townhomes, part of the mixed use Ivory Ridge development located in Lehi, Utah developed by Ivory Development, LLC (the "Clubview Towns at Ivory Ridge").

D.1. The Declaration of Covenants, Conditions and Restrictions for Clubview Towns at Ivory Ridge was or will be recorded in the office of the County Recorder of Utah County, Utah (the "Clubview Towns at Ivory Ridge Declaration"). A Plat Map of Clubview Towns at Ivory Ridge was recorded concurrently with its Declaration.

E. Parkside at Ivory Ridge is a Utah planned residential development of single family residences, part of the mixed use Ivory Ridge development located in Lehi, Utah developed by Ivory Development, LLC (the "Parkside at Ivory Ridge").

E.1. The Declaration of Covenants, Conditions and Restrictions for Parkside at Ivory Ridge was or will be recorded in the office of the County Recorder of Utah County, Utah (the "Parkside at Ivory Ridge Declaration"). A Plat Map of Parkside at Ivory Ridge project was recorded concurrently with its Declaration.

F. Parkside Towns at Ivory Ridge is a Utah planned residential development of townhomes, part of the mixed use Ivory Ridge development located in Lehi, Utah developed by Ivory Development, LLC (the "Parkside Towns at Ivory Ridge").

F.1. The Declaration of Covenants, Conditions and Restrictions for Parkside Towns at Ivory Ridge was or will be recorded in the office of the County Recorder of Utah County, Utah (the "Parkside Towns at Ivory Ridge Declaration"). A Plat Map of Parkside Towns at Ivory Ridge was recorded concurrently with its Declaration.

G. The Walk at Ivory Ridge is a Utah planned residential development of townhomes, part of the mixed use Ivory Ridge development located in Lehi, Utah developed by Ivory Development, LLC (the "Walk Towns at Ivory Ridge").

G.1. The Declaration of Covenants, Conditions and Restrictions for the Walk at Ivory Ridge was or will be recorded in the office of the County Recorder of Utah County, Utah (the "Walk at Ivory Ridge Declaration"). A Plat Map of the Walk at Ivory Ridge was recorded concurrently with its Declaration.

H. Ivory Ridge Commercial, The Lofts at Ivory Ridge, Clubview at Ivory Ridge, Clubview Towns at Ivory Ridge, Parkside at Ivory Ridge, Parkside Towns at Ivory Ridge, The Walk at Ivory Ridge, and the Ivory Ridge Swim and Tennis Club are adjoining Neighborhoods (collectively "Ivory Ridge Properties").

I. The Ivory Ridge Properties and the Developer will share Common Areas and Facilities, including the Swim and Tennis Club.

J. The lands comprising the Tract are areas featuring unique and distinctive terrain.

K. By subjecting the Tract to this Master Declaration, it is the desire, intent and purpose of Developer to create a master planned mixed use development in which beauty shall be substantially preserved, which will both enhance the desirability of living, working and recreating at or benefiting from the Ivory Ridge Properties, and the design scheme of the Developer, and increase and preserve the utility, attractiveness, quality and value of the lands and improvements therein.

L. This Master Declaration affects that certain real property described in Exhibit "A," which is either owned by the Developer or in which Developer has an easement or right-of-way interest (collectively "Tract").

M. Developer has constructed or is in the process of constructing upon the Tract certain improvements.

N. Developer intends to sell to various purchasers the fee title to the individual residential and commercial Units and Lots at the Ivory Ridge Properties, together with memberships in the Ivory Ridge Swim and Tennis Club, Master Association and a Neighborhood Association.

O. Developer desires, by filing this Master Declaration to submit the Tract, and all improvements now or hereafter constructed thereon, to the provisions and protective covenants, restrictions and easements set forth herein.

P. It is the intent of the Developer that the Club Committee manage and operate the Swim and Tennis Club, respecting and honoring the ownership interests of the Lot and Unit Owners as well as the Preferred Members, and that the Board of Delegates manage and operate the Master Association and the other Common Areas and Facilities for the benefit of the Lot and Unit Owners.

**AGREEMENT:**

NOW, THEREFORE, for the reasons recited above, and in consideration of the reciprocal benefits to be derived from the conditions, covenants, restrictions, easements and requirements set forth below, the parties hereto, and each of them, hereby agree:

## I. DEFINITIONS

As used in this Declaration (including the "Recital" section above) each of the following terms shall have the indicated meaning:

1.1 The term **Accessory Building** shall mean and refer to any structure which (1) is not the preliminary structure, (2) contains at least 120 square feet, (3) requires a building permit, (4) is not a shed, shack or other out-building (for which a building permit is not required), and (5) qualifies as such under the totality of the circumstances in the opinion of the ARC.

1.2 The term **Activity Card** shall mean and refer to those certain cards which are issued by the MHOA, Club Committee or Club Manager which confer upon the holder rights of access to and use of the Swim and Tennis Club and other recreational facilities and amenities within the Project, subject to the payment of admission or other user fees as may be established from time to time.

1.3 The term **Area of Common Responsibility** shall mean and refer to the area for which the MHOA is responsible to maintain, repair, replace, administer and regulate, including the Common Area and Facilities, Swim and Tennis Club and such other areas, if any there be, for which the MHOA has agreed to be responsible.

1.4 The term **Area of Personal Responsibility** shall mean and refer to the area privately owned for which the Owner is responsible to maintain, repair and replace.

1.5 The term **Board of Delegates** shall mean and refer to the board of directors or management committee of the MHOA, which shall be comprised of nine members, consisting of 1 delegate from each of the 4 Neighborhoods and 5 delegates appointed by the Developer. Neither the number of members nor the composition of the Board of Delegates may be changed without the express prior written consent of the Developer.

1.6 The term **City** shall mean and refer to Lehi City in Utah County, Utah.

1.7 The term **Club Committee** shall mean and refer to the board of directors or management committee of the Swim and Tennis Club, which shall be comprised of five members, consisting of 2 members appointed by Developer, 1 member appointed by the Preferred Members, 1 member appointed by the SFH Neighborhood, and 1 member appointed by the Townhome and Lofts Neighborhoods. Neither the number of members nor the composition of the Club Committee may be changed without the express prior written consent of the Developer.

1.8 The term **Club Common Expenses** shall mean and refer to Common Expenses incurred solely for the benefit of, and assessed by the MHOA or the Club Committee against, the Members of the Swim and Tennis Club, including expenses for administration and management of the Swim and Tennis Club, and repair, refurbishment and replacement, as applicable, of the Swim and Tennis Club and the Club Furnishings.

1.9 The term **Club Furnishings** shall mean and refer to all interior décor, furnishings, furniture, equipment, appliances, decorations, carpeting, accessories, supplies, fixtures, equipment and other Individual property located within the Swim and Tennis Club designated by the Club Committee of the MHOA for the use and benefit of the Members of the Swim and Tennis Club. Club Furnishings shall constitute Limited Common Facilities available for use solely by the Members of the Swim and Tennis Club.

1.10 The term **Club Manager** shall mean and refer to the person, firm or company designated by the Club Committee to manage, in whole or in part, the business affairs and operation of the Swim and Tennis Club, and its Members. The Club Manager may but is not required to be the same person, firm or company designated as the Common Area Manager.

1.11 The term **Club Membership** shall mean and refer to and shall include the following interests and rights, which are indivisible and inseparable, and which shall be exercised in accordance with the terms and provisions of this Master Declaration: (a) a Membership in the Swim and Tennis Club; and (b) a recurring and non-exclusive right to the use and benefit of the Swim and Tennis Club, available for use pursuant to the Swim and Tennis Club Membership Agreement.

1.12 The term **Club Membership Interest** shall mean and refer to the ownership interest of a Membership in the Swim and Tennis Club, all Club Furnishings located therein, and all other rights and privileges of the Swim and Tennis Club pursuant to the ownership program created by this Master Declaration, as further described in Section 2.7 below.

1.13 The term **Clubview at Ivory Ridge** shall collectively and severally refer to the following items as the context requires:

1.13.1 The **Clubview at Ivory Ridge Association**, which shall mean and refer to the Clubview at Ivory Ridge Association, consisting of all of the Lot Owners in the Clubview at Ivory Ridge Neighborhood acting as a group.

1.13.2 The **Clubview at Ivory Ridge Declaration**, which shall mean and refer to that certain Declaration of Covenants, Conditions and Restrictions for Clubview at Ivory Ridge recorded in the Office of the County Recorder of Utah County, Utah.

1.13.3 The **Clubview at Ivory Ridge Owners**, which shall mean and refer to the Owner(s) of the Lot(s) at the Clubview at Ivory Ridge.

1.13.4 **Clubview at Ivory Ridge Permittees** shall mean and refer to all of the tenants, visitors, guests, invitees, family members,

contractors, licensees, successors, and assigns of each owner of a Lot at the Clubview at Ivory Ridge.

1.13.5 **Clubview at Ivory Ridge Plat** shall mean and refer to that certain subdivision plat of the Clubview at Ivory Ridge recorded in the Office of the County Recorder of Utah County, Utah.

1.14 The term **Clubview Towns at Ivory Ridge** shall collectively and severally refer to the following items as the context requires:

1.14.1 The **Clubview Towns at Ivory Ridge Association**, which shall mean and refer to the Clubview Towns at Ivory Ridge Association, consisting of all of the Lot Owners in the Clubview Towns at Ivory Ridge Neighborhood acting as a group.

1.14.2 The **Clubview Towns at Ivory Ridge Declaration**, which shall mean and refer to that certain Declaration of Covenants, Conditions and Restrictions for Clubview Towns at Ivory Ridge recorded in the Office of the County Recorder of Utah County, Utah.

1.14.3. The **Clubview Towns at Ivory Ridge Owners** shall mean and refer to the Owner(s) of Lot(s) at Clubview Towns at Ivory Ridge.

1.14.4 The **Clubview Towns at Ivory Ridge Permittees** shall mean and refer to all of the tenants, visitors, guests, invitees, family members, contractors, licensees, successors, and assigns of each Owner of a Lot at Clubview Towns at Ivory Ridge.

1.14.5 The **Clubview Towns at Ivory Ridge Plat** shall mean and refer to that certain subdivision plat of Clubview Towns at Ivory Ridge recorded in the Office of the County Recorder of Utah County, Utah.

1.15 The term **Commercial Unit** shall mean and refer to a Commercial Lot or Unit in the Project.

1.16 The term **Common Area Manager** shall mean and refer to the person, firm or company designated by the MHOA to manage, in whole or in part, the affairs of the MHOA and the Common Areas and Facilities.

1.17 The term **Common Areas and Facilities** shall mean and refer to all common elements, areas and facilities in the Tract, including by way of illustration but not limitation all of the land, buildings, space and improvements not privately owned or dedicated to the City,

including by way of illustration but not limitation Center Street, landscape strips, entry monument, roundabout, parks, trails, detention ponds, and other improvements of a less significant nature. The Swim and Tennis Club is considered a common recreational amenity and part of the Common Areas and Facilities, although it is exclusively subject to the jurisdiction and control of the Club Committee.

1.18 The term **Common Assessment** shall mean and refer to the amount imposed upon, assessed or charged an Owner or Member by the MHOA.

1.19 The term **Condominium/Apartment** or **Loft Unit** shall mean and refer to an ownership structure of privately owned (a) apartments, or (b) condominium units, or (c) a combination.

1.20 The term **Corporate Member** shall mean a Person who is a duly qualified holder of a Corporate Membership in the Swim and Tennis Club appurtenant to a Commercial Unit. A Corporate Membership runs with the land and may not be subdivided or partitioned from its Commercial Unit.

1.21 The term **Covenant to Share Costs** shall mean and refer to any contract, agreement, declaration of easements, licenses and/or covenant to share costs executed by the Developer, MHOA or Club Committee and recorded in the Office of the County Recorder which creates easements for the benefit of the MHOA, Owners, Members and/or the Swim and Tennis Club, subject to such Covenant to Share Costs, and/or which obligates the MHOA to share the costs of maintaining certain real, personal or mixed property described therein.

1.22 The term **Dedicated Streets** shall mean and refer to those streets and cul-de-sacs within the Project formally dedicated to the City or any other municipal or governmental body politic, entity or agency.

1.23 The term **Delegate** shall mean and refer to the voting representative of each Member of the Association.

1.24 The term **Developer** shall mean and include Developer and any person or persons who might acquire title from it to all or some of the unsold Lots, Units or Memberships through purchase, assignment or other transfer including foreclosure or deed in lieu of foreclosure; or, in the situation where, any person purchases all, or some of the remaining Lots, Units or Memberships in a sale in the nature of a bulk sale. The person acquiring any of such property from the Developer shall be considered a Developer with respect to that portion of the property so acquired and shall have the right to develop the property and/or sell such property in accordance with the terms and provisions of this Master Declaration and this Master Declaration; provided, however, a notice of succession shall be recorded in the Office of the County Recorder signed by both the current Developer and by its successor in interest as the new Developer.

1.25 The term **Developmental Rights** shall mean and refer to the right granted hereunder to the Developer, its agents, representatives, employees, successors and assigns, to develop and improve the Tract.

1.26 The term **Entry Monument**" shall mean the monument, planter boxes, landscaping features and other physical improvements identifying the Project located at or near the Entry or entrance to the Tract or any Neighborhood.

1.27 The term **Equity Member** shall mean a duly qualified a Person who is a duly qualified holder of an Equity Membership in the Swim and Tennis Club appurtenant to a Lot or Unit. An Equity Membership runs with the land and may not be subdivided or partitioned from its Lot or Unit.

1.28 The term **Exclusive Common Area** shall mean and refer to that portion of the Common Area and Facilities intended for the exclusive use or primary benefit of one or more, but less than all, Neighborhoods.

1.29 The term **Guest** shall mean and refer to a family member, guest, invitee, licensee, and any person or occupant accompanied by a Member or unaccompanied, who has the right to use the Swim and Tennis Club.

1.30 The term **Individual Charges** shall mean and refer to a charge levied by the MHOA or the Club Committee against an Owner or Guest for all expenses resulting from the act or omission of such Owner or Guest, excepting the Owner's failure to pay any Assessment.

1.30.1 The act or negligence of any Guest shall be deemed to be the act or negligence of the Owner responsible for the Guest.

1.30.2 Individual Charges shall include, by way of illustration but not limitation, any expense resulting from the act or omission of any Owner or Guest, including:

1.30.2.1 The cost of individual services, lessons, training and so forth requested by such Owner or Guest during his use of the Swim and Tennis Club;

1.30.2.2 The cost to repair any damage to any portion of the Project, Swim and Tennis Club or to repair or replace any Club Furnishings on account of loss or damage caused by such Owner or Guest; or

1.30.2.3 The cost to satisfy any expense to any other Owner or Owners or to the MHOA, Neighborhood Association or the Club Committee due to any intentional or negligent act or omission of such Owner or Guest, or resulting from the breach by such Owner or Guest of any provisions of the Governing Documents or the Swim Club Membership Agreement; and



1.30.2.4 Any transient occupancy tax, sales tax, use tax or other tax levied pursuant to the laws of the State of Utah and payable by any Owner or Guest which the MHOA, Club Committee or Club Manager is or shall be required or entitled to collect on behalf of the levying authority, although this subsection is not considered an acknowledgment that any such tax may be levied.

While Individual Charges are not Assessments, they are secured by a lien in the same manner as Assessments, as set forth below. The MHOA and Club Committee also shall have all other remedies, both legal and equitable, described in this Master Declaration available against any Owner for nonpayment of such Owner's other monetary obligations.

1.31 The term **Ivory Ridge Commercial** shall collectively and severally refer to the following items as the context requires:

1.31.1 The **Ivory Ridge Commercial Association**, which shall mean and refer to the Ivory Ridge Commercial Association, consisting of all of the Owners in the Ivory Ridge Commercial acting as a group.

1.31.2 The **Ivory Ridge Commercial Declaration**, which shall mean and refer to that certain Declaration of Covenants, Conditions and Restrictions for Ivory Ridge Commercial recorded in the Office of the County Recorder of Utah County, Utah.

1.31.3. The **Ivory Ridge Commercial Owners** shall mean and refer to the Owner(s) of Lots or Units at Ivory Ridge Commercial.

1.31.4 The **Ivory Ridge Commercial Permittees** shall mean and refer to all of the tenants, visitors, guests, invitees, family members, contractors, licensees, successors, and assigns of each Owner of a Lot or Unit at Ivory Ridge Commercial.

1.31.5 The **Ivory Ridge Commercial Plat** shall mean and refer to that certain subdivision plat of Ivory Ridge Commercial recorded in the Office of the County Recorder of Utah County, Utah.

1.32 The term **Landscaping** shall mean and refer to the grass, trees, shrubs, bushes, flowers, plants, and like improvements located within the Tract, as well as the appurtenant sprinkling and irrigation systems.

1.33 The term **Lender** shall mean and refer to a Mortgagee.

1.34 The term **The Lofts at Ivory Ridge Condominium** shall collectively and severally refer to the following items as the context requires:

1.34.1 The **Lofts at Ivory Ridge Condominium Association**, which shall mean and refer to The Lofts at Ivory Ridge Condominium Association, consisting of all of the Owners in The Lofts at Ivory Ridge Condominium Neighborhood acting as a group.

1.34.2 The **Lofts at Ivory Ridge Condominium Declaration**, which shall mean and refer to that certain Declaration of Covenants, Conditions and Restrictions for The Lofts at Ivory Ridge Condominium recorded in the Office of the County Recorder of Utah County, Utah.

1.34.3. The **Lofts at Ivory Ridge Condominium Owners**, which shall mean and refer to the Owner(s) of the Unit(s) at The Lofts at Ivory Ridge Condominium.

1.34.4 The **Lofts at Ivory Ridge Condominium Permittees**, which shall mean and refer to all of the tenants, visitors, guests, invitees, family members, contractors, licensees, successors, and assigns of each Owner of a Unit at The Lofts at Ivory Ridge Condominium.

1.34.5 The **Lofts at Ivory Ridge Condominium Plat** shall mean and refer to that certain condominium plat of The Lofts at Ivory Ridge Condominium recorded in the Office of the County Recorder of Utah County, Utah.

1.35 The term **Lot** shall mean and refer to a portion of the Tract intended for any type of independent private ownership and use as may be set out in this Master Declaration and as shall be shown on the Plat Map filed concurrently, or amendments or supplements thereto. Where the context indicates or requires, the term Lot includes a Unit, Dwelling Unit, Living Unit, Residence or any other physical structure or improvement constructed upon the Lot.

1.36 The term **Lot Number** shall mean and refer to the number, letter or combination thereof designating a particular Lot.

1.37 The term **Master Assessment** shall mean and refer to the charge for maintenance, repair, replacement, operation and administration assessed each Owner and/or Unit or Lot by the MHOA to pay the Master Operating Expenses, and shall include an amount to fund an adequate reserve fund or funds.

1.38 The term **Master Association** or **MHOA** shall mean and refer to the association of the Developer, Ivory Ridge Commercial Association, The Lofts at Ivory Ridge Condominium Association, Clubview at Ivory Ridge Association and the Clubview Towns at Ivory Ridge Association acting as a group in accordance with the Master Declaration.

1.39 The term **Master Declaration** shall mean and refer to this Ivory Ridge Master Declaration of Covenants, Conditions and Restrictions, and Reservation of Easements.

1.40 The term **Master Operating Expenses** shall mean and refer to the common expenses of maintaining, repairing, replacing, and operating the Ivory Ridge Shared Amenity, and administering the MHOA.

1.41 The term **Master Plat** shall mean and refer to the Plat Map or Maps showing the entire Tract.

1.42 The term **Maximum Number of Commercial Lots or Units** shall mean and refer to the maximum number of commercial Lots and Units approved for development within this Project under the Master Plans, as amended from time to time.

1.43 The term **Maximum Number of Memberships** shall mean and refer to the maximum number of Memberships in the Swim and Tennis Club approved for development within this Project under the Master Plans, as amended from time to time.

1.44 The term **Maximum Number of Residential Lots or Units** shall mean and refer to the maximum number of residential Lots and Units approved for development within this Project under the Master Plans, as amended from time to time.

1.45 The term **Member** shall mean and refer to the duly qualified owner or holder of a Membership in the Swim and Tennis Club, including the Developer. The term "Member" shall not include any Mortgagee (unless such Mortgagee has acquired title for other than security purposes).

1.46 The term **Membership** shall mean and refer to a membership in the Swim and Tennis Club, consisting of Equity, Corporate, Preferred and Temporary Memberships.

1.47 The term **Mortgage** shall mean and refer to any mortgage, deed of trust or other security instrument (including the seller's rights under a contract for deed) by which a Lot or Unit or any part thereof or interest therein is encumbered. A First Mortgage is a Mortgage having priority as to all other Mortgages encumbering a Lot or Unit, or any part thereof or interest therein.

1.48 The term **Mortgagee** shall mean and refer to any person or entity named as the mortgagee, beneficiary or holder of the seller's interest (so long as a copy of the contract for deed is given to the MHOA) under any Mortgage by which the interest of any Owner is encumbered, or any successor to the interest of such person under such Mortgage. A First Mortgagee shall mean and refer to any person or entity holding a First Mortgage including any insurer or guarantor of a First Mortgage. Any and all Mortgagee protections contained in the Declaration shall also protect the Developer as the holder of a First Mortgage of a Lot or Unit, or any interest therein.

1.49 The term **Neighborhood** shall mean and refer to each of the following 4 Neighborhoods: SFR Neighborhood, Townhome Neighborhood, Commercial Neighborhood, and Lofts Neighborhood.

1.50 The term **Neighborhood Association** shall mean and refer to the association of property owners for each Neighborhood acting as a group in accordance with this Master Declaration.

1.51 The term **Office of the County Recorder** or **County Recorder** shall mean and refer to the Office of the County Recorder of Utah County, Utah.

1.52 The term **Parkside at Ivory Ridge** shall collectively and severally refer to the following items as the context requires:

1.52.1 The **Parkside at Ivory Ridge Association**, which shall mean and refer to the Parkside at Ivory Ridge Association, consisting of all of the Lot Owners in the Parkside at Ivory Ridge Neighborhood acting as a group.

1.52.2 The **Parkside at Ivory Ridge Declaration**, which shall mean and refer to that certain Declaration of Covenants, Conditions and Restrictions for Parkside at Ivory Ridge recorded in the Office of the County Recorder of Utah County, Utah.

1.52.3 The **Parkside at Ivory Ridge Owners**, which shall mean and refer to the Owner(s) of the Lot(s) at the Parkside at Ivory Ridge.

1.52.4 **Parkside at Ivory Ridge Permittees** shall mean and refer to all of the tenants, visitors, guests, invitees, family members, contractors, licensees, successors, and assigns of each owner of a Lot at the Parkside at Ivory Ridge.

1.52.5 **Parkside at Ivory Ridge Plat** shall mean and refer to that certain subdivision plat of the Parkside at Ivory Ridge recorded in the Office of the County Recorder of Utah County, Utah.

1.51 The term **Parkside Towns at Ivory Ridge** shall collectively and severally refer to the following items as the context requires:

1.51.1 The **Parkside Towns at Ivory Ridge Association**, which shall mean and refer to the Parkside Towns at Ivory Ridge Association, consisting of all of the Unit Owners in the Parkside Towns at Ivory Ridge Neighborhood acting as a group.

1.313.2 The **Parkside Towns at Ivory Ridge Declaration**, which shall mean and refer to that certain Declaration of Condominium and Declaration of Covenants, Conditions and Restrictions for Parkside Towns at Ivory Ridge recorded in the Office of the County Recorder of Utah County, Utah.

1.51.3. The **Parkside Towns at Ivory Ridge Owners** shall mean and refer to the Owners of Units at Parkside Towns at Ivory Ridge.

1.51.4 The **Parkside Towns at Ivory Ridge Permittees** shall mean and refer to all of the tenants, visitors, guests, invitees, family members, contractors, licensees, successors, and assigns of each Owner of a Unit at Parkside Towns at Ivory Ridge.

1.51.5 The **Parkside Towns at Ivory Ridge Plat** shall mean and refer to that certain subdivision plat of Parkside Towns at Ivory Ridge recorded in the Office of the County Recorder of Utah County, Utah.

1.52 The term **Period of Developer's Control** shall mean and refer to the period during which the Developer is entitled to appoint a majority of the Delegates of the Board of Delegates, and otherwise direct and control the development, management and operation of the Project. The Period of Developer's Control shall expire upon the first to occur of the following: (a) Ninety days after Developer sells its last Lot or Unit; or (b) when, in its discretion, the Developer so determines and records in the Office of the County Recorder a written "Notice of Termination of Period of Developer's Control."

1.53 The term **Preferred Member** shall mean and refer to a Person who is a duly qualified holder of a Preferred Membership obtained from the Developer.

1.54 The term **Preferred Membership** shall mean and refer to a Membership, which is non-equity but transferable, with no voting rights in the MHOA, and with voting rights in the Swim and Tennis Club.

1.55 The term **Private Amenity** shall mean and refer to certain real, personal or mixed property located adjacent to, in the vicinity of, or within the Project, which is privately owned and operated by Persons other than the MHOA for recreational and related purposes, on a club membership basis, or otherwise. For example by way of illustration and not limitation, a swim and tennis club, or related and supporting facilities or improvements which are owned and operated by Persons other than the MHOA may be considered a Private Amenity. Any property constituting a Lot, Unit, or Common Area and Facilities, as those terms are defined herein or on the Plat Map shall not be considered a Private Amenity.

1.56 The term **Private Street, Road, Cul-de-sac, Way or Drive** shall mean and refer to those streets, roads, cul-de-sacs, ways, drives or turnabouts within the Project not dedicated to the City or any county, state, or other governmental body politic, entity or agency.

1.57 The term **Project** shall mean and refer to the Tract, Property, Lots, Units, Common Areas and Facilities, Swim and Tennis Club, and all improvements submitted to this Master Declaration.

1.58 The term **Property** shall mean and refer to the Tract or Project.

1.59 The term **Qualified Person** shall mean and refer to any of the following Persons qualifying to own a Membership or Use the Swim and Tennis Club: (a) a residential Lot Owner; (b) a Residential Unit Owner; (c) a Qualified Commercial Unit Owner or its director, officer, manager, employee, insider or legal representative; (d) the Developer or its director, officer, manager, employee, insider, legal representative or other designee of the Developer; (e) an Equity Member; or (f) any other Person expressly authorized by the Developer during the Period of Developer's Control.

1.60 The term **Regular Common Master Assessments** or **RCM Assessments** shall mean and refer to the annual assessments levied by the MHOA to pay the budgeted Master Operating Expenses.

1.61 The term **Residence Number** shall mean and refer to the number, letter or combination of name, numbers and letters that identifies only one Lot or Unit in the Project.

1.62 The term **Residential Member** shall mean and refer to a Person who is a duly qualified holder of a Residential Membership appurtenant to a Residential Unit. A Residential Membership may not be subdivided or partitioned from its Residential Unit.

1.63 The term **Residential Unit** shall mean and refer to a residential Lot or Unit in the Project.

1.64 The term **Single Family Residence** ("SFR") shall mean and refer to (a) both the architectural style of a Unit and the nature of the residential use permitted; and (b) a single family detached residence in the SFR Neighborhood as shown on the Plat Map, which shall include fee title to the Lot on which the home is located, an undivided interest in the use of the Common Area and Facilities, and a Membership, subject to the Master Declaration.

1.65 The term **Size** shall mean and refer to the number of cubic feet, or the number of square feet of ground or floor space, within each Commercial Lot or Unit as computed by reference to the Plat Map and rounded off to a whole number. Certain spaces within the Commercial Lots or Units, such as the attic, basement, or garage space, may be omitted from the calculation or be partially discounted by the use of a ratio if the same basis of calculation is employed for all Commercial Lots or Units in the Project and if that basis is described in the Project Documents.

1.66 The term **Special Common Master Assessments** or **SCM Assessments** shall mean and refer to assessments which the MHOA may levy from time to time, in addition to the Regular Master Common Assessments, for unexpected Master Operating Expenses, major Repairs, Capital Improvements and Additions, or other purposes as provided herein.

1.67 The term **Swim and Tennis Club Policies and Procedures** or Club Policies and Procedures shall mean and refer to the rules, regulations, policies and procedures for the Swim and Tennis Club, as amended from time to time, which will be administered by the Club Committee by which Members use, reserve and schedule the Swim and Tennis Club and Club Furnishings. The Club Policies and Procedures may be modified unilaterally by the Club Committee without amending this Declaration and without the vote of the Members.

1.68 The term **Temporary Member** shall mean and refer to a Person who is a duly qualified holder of a Temporary Membership purchased from the Developer. A Temporary Membership is a non-transferable and non-equity Membership, revocable at will, and with no voting rights .

1.69 The term **Total Votes of the MHOA** shall mean and refer to the number 9, consisting of the votes of the 9 members of the Board of Delegates.

1.70 The term **Total Votes of the Swim and Tennis Club** shall mean and refer to the number 5, consisting of the votes of the 5 members of the Club Committee.

1.70 The term **Townhouse** shall mean and refer to a residential Lot or Unit as shown on the Plat Map, with or without walls or roofs in common with other single family dwelling Lots or Units and which shall include fee title to the real property lying directly below said single family dwelling Lot or Unit and an undivided interest in the use of the Common Area and Facilities, and a Membership, subject to the Master Declaration.

1.71 The term **Unit** or **Condominium Unit** shall mean and refer to a separate physical part of the Property intended for independent use, including one or more rooms or spaces located in one or more floors or part or parts of floors in a building. Mechanical equipment and appurtenances located within any one Unit, or located without said Unit but designated and designed to serve only that Unit, such as appliances, electrical receptacles and outlets, air conditioning compressors, furnaces, water heaters, apparatus, systems or equipment, fixtures and the like, shall be considered part of the Unit; so shall all decorated surfaces of interior walls, floors and ceilings, including but not limited to all paint, wallpaper, wall coverings, windows and window frames, doors and door frames, trim, carpeting, tile and linoleum. All pipes, wires, conduits, or other utility lines or installations constituting a part of the Unit or serving only the Unit, and any structural members, parts, components or any other property of any kind, including fixtures or appliances within any Unit, which are removable without jeopardizing the integrity, soundness, safety or usefulness of the remainder of the Building within which the Unit is located shall be deemed to be part of the Unit. Where the context clearly requires, the term "Unit" may refer to a Lot or Membership, for example in Section 2.6 below.

1.72 The term **Unit Type, Lot Type or Membership Type** shall mean and refer to the designated type, nature, style, model, size and/or configuration of a Lot, Unit or Membership, as set forth herein or on the Plat Map.

1.73 The term **Use Restrictions** shall mean and refer to the rules, regulations and use restrictions described with particularity in Article XII below and the Membership contract or agreement, as they may be modified, amended, repealed, canceled, limited, withdrawn or expanded from time to time.

1.74 The term **Walk at Ivory Ridge** shall collectively and severally refer to the following items as the context requires:

1.74.1 The **Walk at Ivory Ridge Association**, which shall mean and refer to the Walk at Ivory Ridge Association, consisting of all of the Unit Owners in the Walk at Ivory Ridge Neighborhood acting as a group.

1.74.2 The **Walk at Ivory Ridge Declaration**, which shall mean and refer to that certain Declaration of Condominium and Declaration of Covenants, Conditions and Restrictions for Walk at Ivory Ridge recorded in the Office of the County Recorder of Utah County, Utah.

1.74.3. The **Walk at Ivory Ridge Owners** shall mean and refer to the Owners of Units at Walk at Ivory Ridge.

1.74.4 The **Walk at Ivory Ridge Permittees** shall mean and refer to all of the tenants, visitors, guests, invitees, family members, contractors, licensees, successors, and assigns of each Owner of a Unit at Walk at Ivory Ridge.

1.74.5 The **Walk at Ivory Ridge Plat** shall mean and refer to that certain subdivision plat of Walk at Ivory Ridge recorded in the Office of the County Recorder of Utah County, Utah.

## II. INCIDENTS OF OWNERSHIP

2.1 **Types of Ownership.** The Developer desires to create within the Project (a) the ownership of a Residential or Commercial Lot or Unit and (b) the ownership of equity and non-equity memberships in the Swim and Tennis Club, which shall consist of Outside Members, the holders of Memberships, both permanent and temporary, not appurtenant to a Lot or Unit, and Inside Members, the holders of Memberships appurtenant to a Lot or Unit. Anything to the contrary notwithstanding, the Developer expressly reserves the right to create such different types of ownership as Developer in its sole discretion deems necessary or desirable, including,



but not limited to different types of Swim and Tennis Club ownership interests and shall not be obligated to create any of the ownership types described in this Section.

**2.2 Membership in the MHOA.** The Members of the MHOA are:

- SFR Neighborhood Association;
- Townhome Neighborhood Association;
- Commercial Neighborhood Association;
- Lofts Neighborhood Association; and
- Developer

**2.3 Classes, Assignment or Transfer of Memberships in the MHOA and the Swim and Tennis Club.**

2.3.1 There are two classes of membership in the MHOA: Each Neighborhood and the Developer.

2.3.2 Anything to the contrary notwithstanding, the Developer may unilaterally transfer or assign its membership interest in the MHOA.

2.3.3 There are four classes of Memberships in the Swim and Tennis Club: Equity, Preferred, Corporate and Temporary.

2.3.4 Each Equity Membership is an equitable servitude, runs with the land, and is appurtenant to a particular Residential Lot or Unit.

2.3.5 The Developer is granted and hereby reserves all of the Corporate Memberships, which are equitable servitudes, run with, and are appurtenant to the Commercial Units as assigned by the Developer.

2.3.6 Preferred Memberships are individually owned and do not run with the land.

2.3.7 Temporary Memberships while individually owned are granted for a short time or period and are not permanent.

**2.4 Description and Ownership of Common Areas and Facilities.** The Common Areas and Facilities shall mean and include all of the Property not privately owned or dedicated to the City. The Common Area and Facilities are designated on the Plat.

**2.5 Description of Undivided Ownership Interests.** The undivided ownership interest in the Common Areas and Facilities appurtenant to each Lot or Unit in the Project shall be allocated in accordance with their square footage. The undivided ownership interest in the Common Areas and Facilities appurtenant to each Lot or Unit shall be a fraction, the numerator of which is the square footage of the particular Lot or Unit, and the denominator of which is the

total square footage of all Lot and Units in the Project. Alternatively, such fraction may be expressed as a decimal number. The undivided interest appurtenant to each Lot or Unit shall have a permanent character and shall not be altered without the express affirmative written consent of at least two-thirds of the Lots and Units. Provided, however, Developer reserves the right to unilaterally adjust the undivided ownership interest of each Unit in the Common Areas and Facilities following any withdrawal or addition of land, Lots or Units at the Project, in accordance with the formula set forth herein. The sum of the undivided interests in the Common Areas and Facilities allocated to all Lots and Units shall at all times equal one hundred percent (100%). Developer is authorized to round the undivided interest of one or more Units in order to cause the total to equal one hundred percent (100%).

**2.6 Description of Limited Common Areas and Facilities.**

Limited Common Areas and Facilities shall mean a portion of the Common Areas and Facilities reserved for the use of certain Owners to the exclusion of other Owners, including but not limited to any porches, decks, balconies, foyers, storage closets, hot tubs, patios, attics, and other areas as indicated by the Master Declaration or the Plat to be for the exclusive use of one or more but fewer than all of the Lots or Units. Mechanical systems or utility closets serving only the certain Lots or Units shall be Limited Common Areas and Facilities with respect to the Lots or Units which they serve. The Limited Common Areas and Facilities shall be those areas designated as such on the Plat or in this Declaration. The use and occupancy of designated Limited Common Areas and Facilities shall be reserved to the Lots or Units to which such Limited Common Areas is adjacent, unless otherwise shown on the Plat or as specified in this Declaration. Owners may not reallocate Limited Common Areas and Facilities between or among Lots or Units in which they have an interest. The undivided interest for the Residential Lots and Units shall be uniform and equal. Developer shall calculate and revise the undivided interest for each Commercial Lot or Unit in the Project based upon Size, to wit:

$$\frac{\text{Square footage of a Lot or Unit}}{\text{Total square footage of all Lots or Units}} = \text{Ownership Interest in the Common Areas and Facilities of the Project}$$

The undivided interest for each Residential Lot or Unit shall remain equal. Each Owner, by execution of a contract for deed or the acceptance of a deed to a Lot or Unit or a Membership in the Project, shall be considered to have consented to all provisions of this Section, including the procedure for adjustment of undivided ownership interests.

**2.7 Nature and Incidents of Memberships in Swim and Tennis Club.**

2.7.1 Each Membership shall be identified by permanent reference to a letter, number or symbol or combination thereof, to identify the specific Membership. Except as provided herein, after the initial conveyance of a Membership by the Developer to an Owner, a

Membership shall thereafter have a permanent character and shall not thereafter be further divided by the Owner thereof.

2.7.2 All future references to the Membership for legal description purposes shall refer to the letter, number or symbol used by the Developer in the initial conveyance of the Membership. For example, in the event the Developer designates Memberships by utilizing letters of the alphabet, individual Memberships in individual Memberships would be designated by the use of letters A, B, C etc. Once a Membership is identified by the use of a specific letter in connection with a specific Membership, the letter shall become and remain part of the permanent legal description for the Membership.

2.7.3 The conveyance of a Membership appurtenant to a Lot or Unit shall subject such Lot or Unit, subject to the Swim and Tennis Club Rules, Policies and Procedures.

2.7.4 If the Developer subsequently acquires a Membership, then the Developer may elect to reassign or retire the Membership as it deems necessary or appropriate.

2.7.5 Use of Memberships shall be governed by this Master Declaration, the Bylaws, Articles, Swim and Tennis Club Membership Agreement, Swim and Tennis Club Rules, Policies and Procedures, and the Club Committee . All Owners of Memberships are entitled to the benefits of the Swim and Tennis Club and are required to participate in the Membership use program as detailed in the Swim and Tennis Club Rules, Policies and Procedures.

2.7.6 The Swim and Tennis Club Rules, Policies and Procedures adopted by the Club Committee govern the use of the Swim and Tennis Club by Members and Guests.

2.7.7 Members and Guests are entitled to use the Common Areas and Facilities, Swim and Tennis Club and the Club Furnishings pursuant to the Swim and Tennis Club Rules, Policies and Procedures and in accordance with the rules and regulations adopted by the Club Committee, which rules and regulations may, among other things, regulate times, areas, facilities, services, fees and charges. The Common Areas and Facilities, Swim and Tennis Club and certain of the Club Furnishings may or may not be available for use by all Members at all times.

2.7.8 Each Preferred Member is allocated an appurtenant undivided fractional or percentage ownership interest in the Swim and Tennis Club.

2.7.9 Non-Equity Memberships are non-voting and may be terminated, canceled or revoked at any time upon at least 30 days prior written notice.

2.7.10 The type of Membership interest in the Swim and Tennis Club determines voting rights, initial charge, dues and user fees.

2.7.11 The Common Expenses incurred by the Swim and Tennis Club are allocated to Members by the Club Committee based on their type of Membership and undivided ownership interest.

2.7.12 Club Furnishings, including by way of illustration but not limitation the furniture, furnishings, décor, decorations, accessories, equipment and supplies placed in the Swim and Tennis Club initially by the Developer and subsequently by the Club Committee shall constitute Limited Common Area and Facilities appurtenant to Memberships for the use of Members and Guests pursuant to and in accordance with the Swim and Tennis Club Rules, Policies and Procedures. The Developer or Club Committee may remove, replace, relocate, repair and otherwise deal with the Club Furnishings as they deem it necessary, expedient and appropriate in the operation and administration of the Swim and Tennis Club.

2.7.13 The expenses related to Swim and Tennis Club and Club Furnishings shall constitute a Common Expense to be levied against Owners and Members by the MHOA.

**2.8 Title To Swim And Tennis Club Memberships.** Title to a Membership may be held or owned by any Person and in any manner in which title to any other real, personal or mixed property may be held or owned in the State of Utah.

2.8.1 Except as otherwise provided herein, title to no part of a Membership may be separated from any other part thereof during the period of Membership, and each Residential and/or Commercial Membership, and the undivided interest in the Common Areas and Facilities appurtenant thereto shall always be conveyed, devised, encumbered and otherwise affected only as a complete Membership.

2.8.2 Every gift, devise, bequest, transfer, encumbrance, conveyance or other disposition of a Membership, or any part thereof, shall be construed to be a gift, devise, bequest, transfer, encumbrance or conveyance, respectively, of the entire Membership, together with all appurtenant rights created by law and by this Master Declaration. Excluding the initial transfer of Memberships by Developer, upon an Member's transfer of his Membership, the Club Committee may charge a reasonable transfer fee to cover the cost to the Club Committee of changing its books and records.

2.8.3 The Swim and Tennis Club shall be owned in common by all of the Members, and no Member may bring any action for partition thereof.

2.8.4 Each Member shall have the right to encumber his Membership with a Mortgage. However, no Member shall attempt to or shall have the right to encumber the Swim and Tennis Club or any part thereof except the undivided interest therein appurtenant to his undivided ownership interest therein. Any Mortgage of any Membership shall be subordinate to all of the provisions of this Master Declaration, and in the event of foreclosure, the provisions of this Master Declaration shall be binding upon any Member whose title is derived through foreclosure by private power of sale, judicial foreclosure, or otherwise.

2.8.5 No labor performed or services or materials furnished with the consent of or at the request of an Member may be the basis for the filing of a lien against the interest of any other Member, or against any part thereof, or against any other property of any other Member,

unless the other Member has expressly consented to or requested the performance of such labor or furnishing of such services. Express consent shall be deemed to have been given by the Member in the case of emergency repairs thereto. Labor performed or services or materials furnished for the Project, if authorized by the Association and provided for in the Declaration, shall be deemed to be performed or furnished with the express consent of each Member. The Member may remove his Membership from a lien against the Swim and Tennis Club or two or more Memberships or any part thereof by payment to the holder of the lien of the fraction of the total sums secured by such lien which is attributable to his Membership.

2.8.6 Every contract for the sale, transfer or conveyance of a Membership and every other instrument affecting title to a Membership may describe the Membership by the name of the Project, the recording date for this Declaration, the county wherein the Project is located and its Residence or Business Number, (and in the case of a Membership created by the Developer, the letter, number or symbol assigned to it by the Developer) as indicated in this Declaration or as shown on the Plat. Such description will be construed to describe the Membership, together with the appurtenant undivided interest in the Tennis and Swim Club, and to incorporate all the rights incident to such Membership and all of the limitations on such Membership as described in this Master Declaration.

## 2.9 Activity Cards.

2.9.1 **Right to Use Amenities Subject to Valid Activity Card.** Access to and use of the Swim and Tennis Club shall be subject to the presentation of a valid Activity Card issued by the Club Committee.

2.9.2 **Issuance by the Club Committee.** The Club Committee shall determine the number of Activity Cards allocated to each Qualified Person and the maximum number of Activity Cards which may be allocated per Lot or Unit.

2.9.3 **Qualification.** No Activity Cards shall be allocated to:

2.9.3.1 any Lot or Unit which is not occupied by a Qualified Person; or

2.9.3.2 any Person who is not a Qualified Person.

2.9.4 **Determination of Qualified Persons, Lots and Units.** The Club Committee shall determine entitlement to Activity Cards on an annual basis.

2.9.5 **Renewal of Activity Cards.** If a Person remains a Qualified Person and all Membership fees, dues and user fees pertaining to the Membership have been paid in full, and the Person is not otherwise in default, then the Activity Card or Cards allocated to such Qualified Person, Lot or Unit shall be renewed annually without additional application.

**2.9.6 Rules and Regulations.** The Club Committee may establish rules, regulations, policies, procedures, conditions, restrictions, limitations, dues, fees and charges with regard to the Activity Cards and the issuance of Guest privileges.

**2.9.7 Prospective Buyers.** Activity Cards may be issued to Persons who have signed binding contracts to purchase a Lot, Unit or Membership, subject to such policies as the Club Committee may determine from time to time, and to Persons entitled to receive Activity Cards pursuant to a Private Amenity, Covenant to Share Costs or other agreement.

**2.9.8 Assignment of Rights.** Except as may otherwise be expressly provided herein, the right to an Activity Card is based upon ownership of a Lot, Unit and/or Membership in good standing. If, and so long as, a Lot or Unit is occupied solely by Persons other than the Owner, pursuant to a lease or other agreement, then (1) the Owner shall not be entitled to receive an Activity Card, and (2) the right of any occupant to receive an Activity Card shall depend on his or her status as a Qualified Person. Any Owner who leases or otherwise transfers occupancy of his Lot shall provide the Association with immediate written notice thereof and shall surrender to the Association his previously issued Activity Card. Activity Cards shall be surrendered by any holder who ceases to be a Qualified Person, or at any time upon written notification from the Club Committee that the holder no longer is entitled to hold an Activity Card.

**2.9.9 Issuance to the Developer.** As long as the Developer owns any of the Property or Memberships, the MHOA shall provide the Developer, free of charge, with as many temporary Activity Cards as the Developer, in its sole discretion, deems necessary for the purpose of marketing the Lots and Units. The Developer may transfer the Activity Cards to prospective purchasers of Lots subject to such terms and conditions as it, in its sole discretion, may determine. Activity Cards provided to the Developer shall entitle the bearer to use the Tennis and Swim Club, all recreational facilities, and other Common Areas and Facilities, subject to the payment of user fees charged to Qualified Persons holding Activity Cards.

**2.10 Developmental Rights.** The following Developmental Rights are hereby granted or reserved by Developer:

**2.10.1** Developer hereby reserves an easement throughout the Project for a period twenty (20) years from the recording of this Declaration for the purpose of completing all improvements contemplated by the Master Declaration and the Plat, including but not limited to improvements to any land annexed.

**2.10.2** Developer hereby reserves the right, but is not obligated to construct any improvements shown on the Plat; and any other buildings, structures or improvements that Developer desires to construct on the Property, or any other real estate owned by Developer, regardless of whether the same ever become part of the Project.

**2.10.3** Developer hereby reserves the right to maintain sales offices, management offices, signs advertising the Project and models in any of the Units which it owns or leases or on the Common Areas and Facilities of the Project for so long as Developer is an Owner within the

Project. All signage shall comply with county regulations, as the same may be changed from time to time. Developer shall be entitled to utilize, at any one time, any number of Lots or Units which it owns or leases and some or all of the Common Areas and Facilities as sales offices, management offices, and models anywhere in the Project. Developer may relocate sales offices, management offices and models to other Units or Common Areas and Facilities at any time. Notwithstanding an Owner's right to resell his Lot, Unit and Membership and list such Lot, Unit and Membership with any firm or agency as he shall determine, no person or entity other than Developer and/or its duly appointed affiliates, successors, agents or assigns, shall have the right to market or initially sell Lots, Units or Memberships within the Project.

2.10.4 Developer may market Temporary and Preferred Memberships to third parties upon such terms and conditions as Developer may deem advisable.

2.10.5 Notwithstanding anything to the contrary contained in this Master Declaration, Developer may unilaterally, in its sole discretion make such alterations, changes or modifications to any property, Lot or Unit owned by it or the adjacent Common Areas and Facilities, as Developer deems necessary or appropriate including but not limited to the creation or removal of interior walls and modifications to plumbing and electrical systems.

2.10.6 During the Period of Developer's Control, Developer hereby reserves the right to unilaterally change the name of the Project, a Neighborhood or the Swim and Tennis Club.

2.10.7 Neither the MHOA, Neighborhood Association, Board of Delegates, the Club Committee, nor any Owner or Member may take any action or adopt any rule or regulation that interferes or diminishes any Developmental Rights hereunder, without Developer's express prior written consent, and any action taken in violation of this Section shall be null and void and have no force or effect.

2.11 Area of Application. This Declaration shall apply to all of the Tract.

2.12 Right to Expand Application, Withdraw Land, Reconfigure Structure, or Change the Nature of the Use. Without any other additional approval required, the Developer is hereby granted and shall have the unilateral right to:

2.12.1 expand the application of this Declaration in order to annex additional land, Common Area and Facilities, Units, Lots or Memberships;

2.12.2 add additional Neighborhoods, additional Delegates, including by way of illustration but not limitation Common Areas and Facilities, Units or Memberships; and

2.12.3 withdraw land from this Master Declaration.

2.12.4 Adjust percentages of ownership interest based upon additional units or lots or the withdrawal of land.

A written supplement to this Declaration duly recorded shall be necessary and sufficient to expand the application of this Master Declaration.

2.13 **Bylaws.** The Bylaws of the Association are attached hereto, marked Exhibit "B," and incorporated herein by this reference.

### III. ADMINISTRATION OF THE SWIM AND TENNIS CLUB AND USE OF MEMBERSHIPS.

3.1 **Agreement.** By acceptance of a Membership, a Member agrees to be bound by the terms and conditions of this Master Declaration and the other Project Documents.

3.2 **Remedies.** In addition to all remedies provided to the MHOA or Club Committee in this Master Declaration or in law or equity, the MHOA or Club Committee shall also have the following special remedies with respect to any Member who fails to pay Master Assessments, or is otherwise in default of any provision of the Project Documents:

3.3 **Mechanic's Lien.** Any Member who suffers or allows a mechanics' lien or other lien to be placed against the Swim and Tennis Club or the entire Membership shall indemnify, defend and hold each of the other Members harmless from and against all liability or loss arising from the claim or such lien. The MHOA or Club Committee may enforce such indemnity by collecting from the Member who suffers or allows such a lien the amount necessary to discharge the lien and all costs of enforcement incidental thereto. If such amount is not promptly paid, the MHOA or Club Committee may collect the same in the manner provided herein for the collection of Master Assessments for Operating Common Expenses;

3.4 **Transfer of Memberships.** Except as to a transfer to a First Mortgagee by foreclosure or deed in lieu of foreclosure, no Member may transfer his Membership unless and until he is current as to all Master Assessments due to the MHOA, Neighborhood Association or Club Committee, and is otherwise not in default under any other provision of this Master Declaration. The new Member shall, and the former Member shall not, unless the expenses were incurred by the Board of Delegates or MHOA or Club Committee prior to that date, be liable for any Master Assessments made after the date of transfer of title of a Membership.

3.5 **Fines and Sanctions.** The Board of Delegates or MHOA or Club Committee may also impose a monetary penalty, suspend a Member's right to use a Membership or other facility that is part of the Project, or take such other disciplinary action as is appropriate, short of the forfeiture of the Member's right, title and interests in the Project, for any other violation of the provisions of this Master Declaration, Project Documents or the Swim and Tennis Club Rules, Policies and Procedures. Such violations include, without limitation, a Member's unauthorized transfer of a Membership or damage to the Swim and Tennis Club, Common Areas and Facilities, or any other real or personal property that is part of the Project, or creation of a disturbance that interferes with the use and enjoyment of facilities of the Project by other Owners or Members.



**IV. VOTING**

4.1 **Delegate Voting System.** The MHOA shall be operated under a representative delegate voting system.

4.1.1 **Number of Delegates for the MHOA.** There shall be nine (9) members of the Board of Delegates for the MHOA.

4.1.2 **Composition of Board of Delegates for MHOA.** The Board of Delegates for the Master Association shall be comprised of the following representatives:

<b>Delegate</b>	<b>Number</b>
SFR Neighborhood Association	1
Commercial Neighborhood Association	1
Lofts Neighborhood Association	1
Townhomes Neighborhood Association	1
Developer	5
 Total:	 9

4.1.3 **Designation of Delegates.** The Developer and each Neighborhood Association shall designate the natural person to act as its Delegate and to exercise its voting power, and an alternate Delegate to exercise the voting power in the absence of the Delegate, at least sixty (60) days prior to the annual meeting of the MHOA and at such other times as the Delegates may be changed.

4.1.4 **Delegate Voting.** The Delegate of each Neighborhood Association shall be entitled to cast one (1) vote on each issue or matter equal to the number of Units or Lots in his Neighborhood and the Delegate may divide his votes on any issue to reflect the desires of his Neighborhood (e.g, a Delegate with 170 votes on 2 options, after polling the Owners, may allocate 100 votes to Option "A" and 70 votes to Option "B"). During the Period of Developer's Control, the votes of the Delegates appointed by the Developer shall be treble the total number of votes of the Neighborhood Associations.

4.1.5 At each meeting of the MHOA, each Delegate shall cast his or her vote in such manner as such Delegate may, in his or her sole and reasonable discretion, deem appropriate, acting in the best interest of his Member; provided, however, that a Member shall have the authority to call special meetings of the owners in its Neighborhood or Neighborhoods for the purpose of obtaining instructions as to the manner in which its Delegate is to vote on any particular issue.

4.1.6 In the absence of such a governing provision in the Declaration or By-laws governing the Neighborhood, a meeting may be called by the Delegate for the purpose of

deciding how the Delegate shall vote and the vote of a majority of the Owners represented at that meeting shall control the Delegate's vote on that issue.

4.1.7 It shall be conclusively presumed for all purposes of the MHOA business that any Delegate casting votes on behalf of his Member will have acted with the authority and consent of all of the owners in the Neighborhood.

4.1.8 All agreements and determinations lawfully made by the MHOA in accordance with the voting procedures established herein shall be deemed to be binding on all Members and their successors and assigns.

**4.2 Neighborhood Voting.** At any meeting of a Neighborhood Association, each Owner of a Lot, Unit or Membership, including Developer, either in person or by proxy, shall be entitled to vote the number of votes appurtenant to each respective Lot, Unit or Membership.

4.2.1 The voting rights appurtenant to each Lot, Unit or Membership shall vest upon execution and recording of this Master Declaration.

4.2.2 The number of votes appurtenant to each respective Lot, Unit or Membership shall be based on the undivided interest of the Lot or Unit in the Common Areas and Facilities and/or Membership in the Swim and Tennis Club. The number of votes appurtenant to each Lot, Unit or Membership shall have a permanent character, and, except as otherwise permitted and provided for in this Master Declaration or under this Master Declaration, shall not be altered without the affirmative written consent of at least two-thirds of the Lots, Units and Members expressed in a duly recorded Amendment.

**4.3 Club Committee Voting System.** The Club Committee shall be operated under a representative voting system.

4.3.1 **Number of Members of Club Committee.** There shall be five (5) members of the Club Committee.

4.3.2 **Composition of Board of Delegates for MHOA.** The Club Committee shall be comprised of the following representatives (the "Club Committee Member"):

<b>Delegate</b>	<b>Number</b>
SFR Neighborhood Association	1
Combined Townhome and Lofts Neighborhood Associations	1
Preferred Members	1
Developer	2
<b>Total:</b>	<b>5</b>

4.3.3 **Designation of Members of Club Committee.** The Developer, SFR Neighborhood Association, Combined Townhome and Lofts Neighborhood Association, and the Preferred Members shall designate the natural person to act as its Club Committee Member and to exercise its voting power, and an alternate Club Committee Member to exercise the voting power in the absence of the designated person, at least sixty (60) days prior to the annual meeting of the Club Committee and at such other times as the Club Committee Member may be changed.

4.3.4 **Voting.** Each Club Committee Member shall be entitled to cast one (1) vote on each issue or matter; provided, however, during the Period of Developer's Control, the votes of the Club Committee Members appointed by the Developer shall be treble the total number of votes of the other Club Committee Member.

4.3.4.1 At each meeting of the Club Committee, each Club Committee Member shall cast his or her vote in such manner as such Club Committee Member may, in his or her sole and reasonable discretion, deem appropriate, acting in the best interest of his constituents; provided, however, that a Club Committee Member shall have the authority to call special meetings of the owners in its Neighborhood or Neighborhoods or group for the purpose of obtaining instructions as to the manner in which its Club Committee Member is to vote on any particular issue.

4.3.4.2 In the absence of such a governing provision in a Neighborhood Declaration or By-laws or Membership Agreement governing voting, a meeting may be called by the Club Committee Member for the purpose of deciding how the Club Committee Member shall vote and the vote of a majority of the Owners represented at that meeting shall control the Club Committee Member's vote on that issue.

4.3.4.3 It shall be conclusively presumed for all purposes of the Club Committee business that any Club Committee Member casting a vote or votes will have acted with the authority and consent of all of the owners whom he or she represents.

4.3.4.4 All agreements and determinations lawfully made by the Club Committee in accordance with the voting procedures established herein shall be deemed to be binding on all Owners and their successors and assigns.

4.3.4.5 **Anything to the contrary notwithstanding, in the event of any conflict between the MHOA, Board of Delegates or any Owner and the Club Committee regarding the Swim and Tennis Club, the latter shall in all respects govern and control.**

## V. EASEMENTS

5.1 **Grant of Easement.** Developer hereby reserves to itself and grants to the MHOA a nonexclusive, perpetual right-of-way and easement over, across and through the Tract, together with the right to use, operate, maintain, repair and replace the Common Areas and Facilities, subject to all of the terms, covenants, conditions and restrictions set forth herein.

5.2 **Common Use of Easement.** Said easement is to be used in common by the MHOA, Developer and each Neighborhood and its Owners, subject to all of the terms, covenants, conditions and restrictions set forth herein.

5.3 **Private Easement.** The easement created is intended to be used as a private non-exclusive easement for the exclusive use and benefit of Developer, MHOA, each Neighborhood and its Owners.

5.4 **Benefited Expense Regarding Landscaping.** Each Neighborhood is hereby empowered to and may, with the prior written consent of the MHOA, elect, at its sole expense and for its benefit, to upgrade its Neighborhood, or any part thereof (the "Benefited Expense"), although such Benefited Expense shall not be considered part of the Master Operating Expenses.

5.5 **Encroachments.** If any part of the Common Areas and Facilities encroaches or shall hereafter encroach upon a Lot or Unit or Lots or Units, an easement for such encroachment and for the maintenance of the same shall and does exist. If any part of a Lot or Unit encroaches or shall hereafter encroach upon the Common Areas and Facilities, or upon an adjoining Lot or Unit or Lots or Units, an easement for such encroachment and for the maintenance of the same shall and does exist. Such easements shall extend for whatever period the encroachment exists. Such encroachments shall not be considered to be encumbrances either on the Common Areas and Facilities or the Lots or Units. Encroachments referred to herein include, but are not limited to, encroachments caused by error in the original construction of any improvement constructed or to be constructed within the Project, by error in the Plat, by settling, rising or shifting of the earth, or by changes in position caused by repair or reconstruction of the Project or any part thereof.

5.6 **Improvements.** Improvements, including Lots or Units, Common Areas and Facilities and Limited Common Areas and Facilities, constructed as subsequent phases of the Project may encroach upon portions of the Common Areas and Facilities of earlier phases of the Project. A perpetual easement for such encroachment and this Master Declaration necessary to repair, maintain and operate such improvements is hereby granted.

5.7 **Rights of Access.** Each Owner shall have the right to ingress and egress over, upon and across the Common Areas and Facilities as necessary for access to the Lot or Unit he is occupying and to any Limited Common Areas and Facilities appurtenant to his Lot or Unit, to the Swim and Tennis Club, and he shall have the right to the horizontal, vertical and lateral support of his Lot or Unit.

5.8 **Developer's Easement.** The MHOA hereby grants and conveys to the Developer an exclusive easement to make such use of the Common Areas and Facilities, and the Swim and Tennis Club, as may be necessary or convenient to perform the duties and functions that each is obligated or permitted to perform pursuant to this Master Declaration, including, without limitation, the right to construct and maintain the Common Areas and Facilities, and the Swim and Tennis Club, for use by the Owners, Members, and the MHOA.

**5.9 Construction Easements.** The Developer hereby reserves for itself and its affiliates and assignees a temporary construction easement over the Common Areas and Facilities, and Swim and Tennis Club, for the purpose of doing all things that are reasonably necessary as a part of constructing any new improvements for the Project including all physical improvements as well as all Lots, Units, Common Areas and Facilities, and the Swim and Tennis Club. The Owners of Lots, Units or Memberships do hereby acknowledge and agree that there will be construction activities, traffic, noises, odors and vibrations which may temporarily disrupt their quiet enjoyment of their Lots, Units or Memberships and the Common Areas and Facilities, and Swim and Tennis Club appurtenant thereto until all improvements are complete, and such Owners do hereby waive any right to object to such construction activity; provided, however, Developer shall endeavor to use reasonable efforts to minimize the adverse impact of such construction activities on the Owners of Lots, Units or Memberships in the Project. Developer's construction activities pursuant to the easement granted hereunder shall not be deemed to be a violation of the Use Restrictions.

**5.10 Locations Facilities Easements.** Developer reserves a non-exclusive easement for itself and its affiliates and assignees to construct, operate, maintain, repair and replace all types of telecommunication facilities, including but not limited to roof antennas, within suitable locations for such facilities (the "Locations of Facilities") within the Project. Developer further reserves a right of access to the Locations of Facilities over, across, and through all other Common Areas and Facilities of the Project in order to access the Locations of Facilities to exercise the rights established herein. Developer reserves the perpetual right to transfer by easement, license agreement or other conveyance the rights reserved hereunder to one or more telecommunication facilities providers. Developer may exercise all of such rights unilaterally and without the consent of any Owner, Mortgagee or the MHOA. The MHOA, on behalf of all Owners, agrees to execute such further and additional instruments as may be requested by Developer documenting the rights hereunder, in form satisfactory to the Developer, and any assignee of its rights hereunder.

**5.11 Entry Monument Easement.** Easements the Entry Monument and corresponding utility and drainage systems and facilities, and irrigation are reserved hereby and on the recorded Plat. An Owner may not do any landscaping, grading or work, or install any structure, building, improvement, planting, or other object, natural or artificial, or materials which may damage or interfere with the installation and maintenance of utilities, Entry Monument, or which may change the direction of flow of drainage channels in, on or about the easements and rights of way, or which may obstruct or retard the flow of water through the drainage channels in the easements and rights of way. If a drainage channel is altered by an Owner, the Developer and/or the Association expressly reserve the right to enter onto the property to restore the area at the cost of the Owner, and without being guilty of a trespass. In addition, the easement and right of way area of or on each Lot, including by way of illustration but not limitation, the Entry Monument, in whole or in part, utilities, drainage systems and facilities, and irrigation, and all improvements within said area shall be maintained continuously by the Owner of the property, at his sole expense, excepting those improvements for which a public authority or utility company is expressly responsible.

5.12 **Parking.** While occupying a Lot or Unit or using the Swim and Tennis Club, all Owners and Members are entitled to use the parking areas designated as Common Areas and Facilities, except those in the designated Exclusive Common Areas or reserved or assigned to a particular Lot, Unit or Neighborhood, subject to and in accordance with the rules and regulations adopted by the MHOA or Club Committee.

5.12.1 The Board of Delegates or Club Committee may assign parking spaces in the Common Area to facilitate the use and demands of the Commercial Lots and the Swim and Tennis Club, and, among other things, may reserve spaces for a particular Neighborhood, may create tow, automatic tow and other zones, and may adopt parking rules and regulations.

5.12.2 Since it is anticipated that the Developer prior to the expiration of the Period of Developer's Control or thereafter the Board of Delegates will be required to allocate the parking spaces serving the Commercial properties and the Swim and Tennis Club among the Commercial Unit Owners and Members and Guests, they are hereby granted the right, power and authority to unilaterally allocate and assign the use of said parking spaces among the users as it deems necessary and appropriate.

5.12.3 The Developer prior to the expiration of the Period of Developer's Control or thereafter the Board of Delegates, shall have the right, power and authority to unilaterally relocate, reallocate and/or reconfigure any and all the easements or licenses or parking assignments described in this Master Declaration from time to time as it sees fit, and without the consent of any Owners.

5.13 **Irrevocable Assignment of Parking Spaces.** The allocation and assignment of parking spaces between the Commercial Lots and Units and the Swim and Tennis Club established by the Developer shall upon the termination of the Period of Developer's Control become of permanent character and irrevocable without the express prior written consent of all of the Commercial Lot and Unit Owners, and the City.

5.14 **Developer's Non-Exclusive Easement.** Developer reserves a non-exclusive easement for itself and its affiliates and assignees over, through and under the Property for ingress to, egress from, and installation, replacement, repair and maintenance of, all utility and service lines and systems, including, without limitation, water, sewer, gas, telephone, electricity and cable communication that service the Property or any portion thereof as well as any such lines and systems which service property owned by the Developer.

5.15 **Reservation of Rights.** All conveyances of Lots, Units or Memberships within the Project hereafter made, whether by Developer or otherwise, shall be construed to grant and reserve such easements and/or licenses as are provided herein, even though no specific reference to such easements appears in any such conveyance.

## VI. NOTICES

6.1 **Notices.** Any notice permitted or required to be delivered as provided herein may be delivered either personally, by first class mail, by express mail or overnight courier service providing proof of delivery, or by telecopy or facsimile transmission. Notice to Owners shall be addressed to each Owner at the address given by such Owners to the Board of Delegates for the purpose of service of such notice or to the Lot or Unit of such Owner if no such address has been given to the Board of Delegates. Notice shall be deemed given when actually received if personally delivered or sent by overnight courier; if faxed, when the fax is received, except that if the fax is received at a time other than the normal business hours of the office at which it is received, on the next regular business day; and if by mail, the earlier of the day actually received or the third business day after the notice is deposited in the Lot or United States Mail, properly addressed and postage prepaid. Such address may be changed from time to time by notice in writing to the Board of Delegates addressed to:

Ivory Ridges MHOA  
Mailing Address  
City, State and Zip  
Attn:

## VII. INSURANCE AND INDEMNITY

7.1 **Insurance.** The Board of Delegates may adopt General Insurance House Rules, Policies and Procedures intended as a guide for owners and residents in order to maintain the insurability of the project, keep the insurance premium reasonable, and enforce the maintenance responsibilities of the individual owners. The MHOA, for itself, the Swim and Tennis Club, and each Neighborhood Association, unless it shall assign in writing that duty to the Neighborhood Association or Club Committee, shall obtain the following insurance coverages (the "Association Master Policy" or "MHOA Policy"):

- public liability;
- property, fire and extended hazard;
- directors and officers; and
- fidelity bond.

7.2 **Insurance Company.** The MHOA shall use a responsible insurance company or companies duly qualified and licensed in the State of Utah.

7.3 **Minimum Amount of Insurance Coverage.** The limits of each liability insurance policy purchased for the MHOA, Swim and Tennis Club, and each Neighborhood Association shall be in an amount not less than \$2,000,000.00 per occurrence and \$1,000,000.00 per person for bodily injury, death, and property damage. This amount may be increased or decreased by the Board of Delegates upon a written recommendation for its insurance agent without amending the Declaration.

7.4 **Name Association as "Loss Payee" or "Additional Insured"**. Any insurance policy obtained independently by the Swim and Tennis Club or a Neighborhood Association shall name the MHOA as a certificate holder, additional insured and/or loss payee.

7.5 **Certificate of Insurance**. For each insurance policy obtained independently by the Swim and Tennis Club or a Neighborhood Association, the insured shall provide the MHOA with a Certificate of Insurance documenting that the insurance required hereby has been obtained and is in force.

7.6 **Notice of Material Change or Cancellation**. For each insurance policy obtained independently by the Swim and Tennis Club or a Neighborhood Association, the insurance carrier shall be required contractually to give the MHOA not less than thirty (30) days prior written notice of any material change or cancellation of such insurance policies.

7.7 **Waiver**. Each Neighborhood Association hereby waives any and all right of recovery against the other Neighborhood Associations, MHOA, or against their officers, employees, agents and representatives, and against any Owners or Members on account of loss or damage occasioned to such waiving party or its property or the property of others under its control to the extent that such loss or damage is insured against under any policy of insurance which any of the waiving parties may have in force at the time of such loss or damage.

7.8 **Miscellaneous.**

7.8.1 If the Board of Delegates has arranged for liability, property, directors and officers insurance or a fidelity bond to cover against loss or damage by fire and other hazards for the MHOA, or any Neighborhood Association, the Swim and Tennis Club, and all Common Areas and Facilities, then the premium is to be a Operating Common Expense.

7.8.2 This obligation and right of the MHOA to purchase insurance coverage as set forth herein is without prejudice to the right of each Lot Owner to insure his own Lot for his benefit.

7.8.3 The MHOA Master Policy DOES NOT cover personal property of the Lot or Unit Owner or renter such as automobiles, furniture, appliances, paintings, pictures, wall hangings, and clothing or personal liability.

7.8.4 Renters and Owners should insure their personal property, belongings and effects, and leasehold interests.

7.8.5 The insurance to cover contents and personal property is the responsibility of the individual Lot or Unit Owner or renter.

7.8.6 The deductible for the MHOA Master Policy may be up to \$10,000.00 and may be the responsibility of the Swim and Tennis Club, a Neighborhood Association or an



Owner or Member, who are encouraged to purchase independent insurance to cover this risk or peril.

7.8.7 The deductible on a claim made against the MHOA Policy shall be paid for by the party who would be liable for the loss, damage, claim, or repair in the absence of insurance, and in the event of multiple responsible parties, the loss shall be allocated in relation to the amount each party's responsibility bears to the total. If a loss is caused by an act of God or nature or by an element, risk or peril beyond the control of the parties, then the Lot or Unit Owner shall be responsible for the deductible. Each Lot or Unit Owner is encouraged to purchase insurance to cover the cost of the deductible.

7.8.8 If any term, part or provision of this document is ruled by a court of competent jurisdiction to be illegal or in conflict with any law of the State of Utah, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the document did not contain such term, part or provision.

7.8.9 The MHOA has the right, power and authority to adjust claims.

## VIII. MAINTENANCE

8. Operation and Maintenance. The MHOA shall have the power, authority, right, and duty to operate, maintain, keep, and replace the Swim and Tennis Club, and all Common Areas and Facilities not maintained by the Neighborhood Associations in a state of good repair and condition.

8.1 **Repair of Damage.** MHOA shall repair any damage it may cause to the property of any Neighborhood, and restore the property to its original condition, reasonable wear and tear excepted.

8.2 **Area of Common Responsibility.** Unless the maintenance responsibility is expressly delegated to and accepted by a Neighborhood Association, the maintenance, replacement and repair of the Common Areas and Facilities, including the Swim and Tennis Club, shall be the sole responsibility of the MHOA, and the cost thereof shall be a Operating Common Expense.

8.3 **Common Parking and Utilities.** The MHOA shall also maintain, replace and repair all common parking areas, and all common utilities, conduits, ducts, plumbing and wiring and other central facilities for the furnishing of heat, air conditioning, gas, light, power, water and sewer service.

8.4 **Incidental Damages.** All incidental damages caused to private property by the maintenance, replacement and repairs of the Common Areas and Facilities or utility services shall be repaired promptly and the cost thereof charged as a Operating Common Expense.

8.5 **Access Through Common Area.** Because some of the Common Areas and Facilities are or may be located within private property or may be conveniently accessible only through such property, the MHOA or Club Committee shall have the irrevocable right to have access to each Lot or Unit and to all Common Areas and Facilities from time to time during such reasonable hours as may be necessary for the cleaning, repair or replacement of any Common Areas and Facilities or for making any emergency repairs at any time and when necessary to prevent damage to the Common Areas and Facilities or to any Lot or Unit.

8.6 **Access Through Lots or Units.** The MHOA shall also have the irrevocable right to have access to any Lot or Unit when necessary in connection with any cleaning, maintenance, repair, replacement, painting, landscaping, construction or reconstruction for which the MHOA is responsible or for the purpose of abating a nuisance or a known or suspected dangerous or unlawful condition. Such entry shall be made with as little inconvenience to the Owners as is practicable under the circumstances and any damage caused thereby shall be repaired by the MHOA.

## **IX. GRANT OF POWERS, OFFICERS, LIMITATION OF LIABILITY AND OTHER MISCELLANEOUS PROVISIONS REGARDING THE BOARD OF DELEGATES**

9. **General.** The MHOA shall be governed by the following provisions:

9.1 **Board of Delegates.** The management and maintenance of the Project and the administration of the affairs of the MHOA shall be conducted by a Board of Delegates, who shall be elected as provided in this Declaration and in the Bylaws.

9.2 **Delegation of Powers.** The Board of Delegates may appoint the Club Committee to administer, manage and operate the Swim and Tennis Club. Notwithstanding anything to the contrary, to the extent of any conflict between decisions of Board of Delegates and the Club Committee, the decision of the former shall in all respects govern and control.

9.3 **Grant of Powers.** Except as otherwise provided in Section \_\_\_ with respect to the Club Committee or elsewhere herein, the Board of Delegates shall have all the powers, duties and responsibilities as are now or may hereafter be provided by this Master Declaration and the Bylaws, including but not limited to the following:

9.3.1 To make and enforce all rules and regulations covering the operation and maintenance of the Project and the Lots and Units.

9.3.2 To engage the services of the Common Area Manager, accountants, attorneys or other employees or agents and to pay to said persons a reasonable compensation therefore.

9.3.3 To operate, maintain, repair, improve and replace the Common Areas and Facilities.

9.3.4 To determine and pay the Master Operating Expenses.

9.3.5 To assess and collect the proportionate share of Master Operating Expenses from the Owners.

9.3.6 To enter into contracts, deeds, leases and/or other written instruments or documents and to authorize the execution and delivery thereof by the appropriate officers.

9.3.7 To open bank accounts on behalf of the MHOA and to designate the signatories therefore.

9.3.8 To purchase, hold, sell, convey or mortgage any one or more Lots, Units and Memberships in the name of the MHOA or its designee.

9.3.9 To bring, prosecute and settle litigation for itself, the MHOA and the Project.

9.3.10 To obtain insurance for the MHOA, Neighborhood Associations, Lots, Units and the Common Areas and Facilities, as well as worker's compensation insurance.

9.3.11 To repair or restore the Project following damage or destruction or a permanent taking by the power of or power in the nature of eminent domain or by an action or deed in lieu of condemnation not resulting in the removal of the Project from the provisions of this Declaration.

9.3.12 To own, purchase or lease, hold and sell or otherwise dispose of, on behalf of the Owners, items of personal property necessary to or convenient to the management of the business and affairs of the MHOA and the Board of Delegates and to the operation of the Project, including without limitation furniture, furnishings, fixtures, maintenance equipment, appliances and office supplies.

9.3.13 To keep adequate books and records and implement the policies and procedures for the inspection of the books and records of the Project by Owners in accordance with the terms of the Bylaws. The MHOA or the Board of Delegates shall make available to the Owners, Mortgagees and the holders, insurers and guarantors of the First Mortgage on any Unit current copies of the Declaration, Articles, Bylaws and other rules governing the Project and other books, records and financial statements of the MHOA. "Available" shall mean available for inspection, upon request, during normal business hours or under other reasonable circumstances.

9.3.14 To do all other acts necessary for the operation and maintenance of the Project, including the maintenance and repair of any Unit if the same is necessary to protect or preserve the Project.

9.3.15 To prepare, adopt, amend and disseminate budgets and other information from time to time in accordance with the terms of the Bylaws.

9.3.16 To grant conveyances, easements and rights-of-way over the Common Areas and Facilities and to approve signage for the Project.

9.3.17 To enforce the rules, regulations, policies and procedures of the MHOA and Club Committee.

9.3.18 Subject to the limitations of applicable law, the Board of Delegates may delegate to the Club Committee, a Neighborhood Association, Common Area Manager or Club Manager by written agreement all or some of the foregoing powers, duties and responsibilities.

**9.4 Officers, Agents and Employees.** Members of the Board of Delegates, the officers and any assistant officers, agents and employees of the MHOA (i) shall not be liable to the Owners as a result of their activities as such for any mistake of judgment, negligence or otherwise, except for their own willful misconduct or bad faith; (ii) shall have no personal liability in contract to an Owner or any other person or entity under any agreement, instrument or transaction entered into by them on behalf of the MHOA in their capacity as such; (iii) shall have no personal liability in tort to any Owner or any person or entity, direct or imputed, by virtue of acts performed by them, except for their own willful misconduct or bad faith, nor for acts performed for and/or by them in their capacity as such; and (iv) shall have no personal liability arising out of the use, misuse or condition of the Project, which might in any way be assessed against or imputed to them as a result or by virtue of their capacity as such.

**9.5 Limitation of Liability.** When a member of the Board of Delegates is sued for liability for actions undertaken in his or her role as a member of the Board of Delegates, the MHOA shall indemnify him or her for losses or claims, and undertake all costs of defense, until and unless it is proven that he or she acted with willful or wanton misfeasance or with gross negligence. After such proof the MHOA is no longer liable for the cost of defense, and may recover costs already expended from the member of the Board of Delegates who so acted. Members of the Board of Delegates are not personally liable to the victims of crimes occurring at the Project. Punitive damages may not be recovered against the MHOA, but may be recovered from persons whose gross negligence gave rise to the damages.

**9.6 Subcontracts.** The MHOA acting through the Board of Delegates may enter into a contract or management agreement with a Neighborhood Association, Club Committee, Common Area Manager, Club Manager or other Manager for the management of the Project, in whole or in part, which complies with the covenants, conditions and restrictions set forth herein. All such contracts shall be in writing signed by the parties. The person or entity so engaged shall be responsible for managing the Project, or any portion thereof, for the benefit of the MHOA and the Owners or Members, and shall, to the extent permitted by law and by the terms of the agreement with the MHOA, be authorized to perform any of the functions or acts required to be performed by the MHOA itself. Any such contract or management agreement executed on or

before the termination of the Period of Developer's Control may be terminated by the Developer without cause at any time.

9.7 **Reservation of Rights.** Developer reserves the right, for a period of twenty (20) years following the recording of this Declaration, to unilaterally and without notice to or consent of the Owners or the MHOA, bind the Property and the Buildings or physical improvements to the utilization of the services of any service company, service district or improvement district or any entity or organization acting in a similar capacity, including Developer, its affiliates, successors and assigns (collectively referred to as "Service District"), established for the purpose of providing utility service or quasi-utility services or similar common service to the Property and/or other adjacent or proximate parcels of property, and to include the charges and assessments from such Service District as a "Master Operating Expense."

## X. CLUB COMMITTEE

10.1 **General.** The Club Committee shall manage and operate the Swim and Tennis Club. The Club Committee shall have the following rights, power and authority:

10.1.1 Maintain, clean, repair, replace, repaint or restore the Swim and Tennis Club and Club Furnishings;

10.1.2 Manage the Swim and Tennis Club and in connection therewith to implement and operate reservation, housekeeping, front desk, check out and departure services and systems for the benefit of Members and Guests;

10.1.3 Establish a budget; Levy and collect fees, charges, and Assessments from the Members. The Club Committee may delegate its billing, collection and record keeping responsibilities, in whole or in part, to the MHOA;

10.1.4 Establish and maintain one or more reserve funds to pay any expenses incurred by the Club Committee in the exercise of its powers or the performance of its duties, including but not limited to reserves for the maintenance, repair and replacement of the Swim and Tennis Club and Club Furnishings;

10.1.5 Pay taxes and assessments levied by governmental authority on the Swim and Tennis Club and any Club Furnishings or other personal property owned by the Swim and Tennis Club for the exclusive benefit of its Members;

10.1.6 Enforce decisions which pertain to the Swim and Tennis Club and to pay all expenses incidental to such enforcement, including reasonable attorneys fees, including, without limiting the foregoing, the right to reimburse Developer for all costs and expenses incurred or paid by it in connection with the enforcement of any of the conditions, covenants, restrictions, charges, assessments or terms contained herein;

10.1.7 Have prepared and distributed to Members on an annual basis (or more frequently if deemed appropriate) the financial statements pertaining exclusively to the Swim and Tennis Club;

10.1.8 Obtain and maintain in force all policies of insurance deemed necessary or appropriate by the Club Committee;

10.1.9 Adopt, revise, amend, enforce and administer the Swim and Tennis Club Rules, Policies and Procedures governing the use of Swim and Tennis Club;

10.1.10 Expend monies received;

10.1.11 Receive all notices, claims and demands relating to taxes and Master Assessments affecting the Swim and Tennis Club or its Members. By accepting title to a Membership, the purchaser thereof thereby waives his right to receive such notices and designates the Club Committee as his or her exclusive agent and attorney in fact for receipt of such notices, claims or demands and appeals related thereto;

10.1.12 Contract with others for the management, maintenance, operation, construction or restoration of the Swim and Tennis Club and Club Furnishings, or any portion thereof;

10.1.13 Conduct reception, reservations, housekeeping, grounds keeping, and other services for benefit of Members and their Guests as deemed necessary or appropriate by the Club Committee and to cause the MHOA to assess the cost thereof as Common Expenses to the Members as determined by the Club Committee in the exercise of its reasonable discretion;

10.1.14 Employ a Club Manager and pay such Club Manager for its services;

10.1.15 Do and perform any and all other acts which may be either necessary for, or proper or incidental to, the exercise of any of the foregoing powers;

10.1.16 Be a member of or participate in and pay assessments to any entity for common services including, but not limited to electricity, heat, security, insect control, common road maintenance, water and sewer services, fire protection, recreation and common area charges of any other nature, all for the exclusive benefit of the Members;

10.1.17 Enter the Swim and Tennis Club at any reasonable time upon giving reasonable notice for the purpose of cleaning, painting, maintenance, and repair, or for any other purpose reasonably related to the performance by the Club Committee of its responsibilities under the terms of this Master Declaration. Such right of entry shall be exercised in such a manner as to avoid any unreasonable or unnecessary interference with the possession,

use and/or enjoyment by the Members of the Swim and Tennis Club and shall be preceded by reasonable notice to the occupant thereof whenever the circumstances reasonably permit;

10.1.18 Contract with any public or private utility provider for any type of utility services deemed appropriate or necessary by the Club Committee for the exclusive use of the Members;

10.1.19 Pay, on behalf of Members, charges for all utilities and personal and real property taxes for the Swim and Tennis Club and to assess each Member his pro rata share of such utility costs and taxes; and

10.1.31 Perform such other functions and duties as may be required by a majority vote of the Members.

10.2 **Subcontracts.** The MHOA acting through the Club Committee may enter into a contract with a Club Manager for the management of the Swim and Tennis Club. The Club Manager so engaged shall be responsible for managing the Swim and Tennis Club for the benefit of the MHOA and the Preferred Members, and shall, to the extent permitted by law be authorized to perform any of the functions or acts required to be performed for the benefit of the Swim and Tennis Club and its Members.

10.3 **Payment for Goods and Services.** All goods and services procured by the Club Committee in maintaining the Swim and Tennis Club and administering the Club Committee shall be paid for with funds generated by the Master Assessments.

10.4 **Default.** In the event of a maintenance default, which remains uncured for ten (10) days after delivery of written notice (except in the case of an emergency which threatens substantial and immediate harm to person or property):

10.4.1 The City shall have a right, but not any duty or obligation, of enforcement of the Club Committee's rights and duties hereunder. For that purpose, the City is a third party beneficiary of this Agreement.

10.4.2 If the City hereafter reasonably determines that the Club Committee has failed or refused to discharge properly any of its obligations with regard to the Tract, or that the need for maintenance, repair, replacement or insurance coverage of such is caused through the willful or negligent act of the Club Committee, the City may, but shall not in any way be obligated to, provide such maintenance, repair, replacement or coverage at the sole cost and expense of the Club Committee and the Neighborhoods, jointly and severally.

10.4.3 Any cost or expense incurred by the City as a result of the Club Committee's failure to properly perform its duties under this Agreement shall constitute a lien on the interests of the Club Committee and of the Neighborhoods in the Tract and all common areas of any and all of the Neighborhoods (collectively the "Lien Areas"). Such lien upon the Lien

Areas is prior to all other liens and encumbrances, recorded or unrecorded, affecting the Lien Areas.

10.4.4 The Club Committee and each of its Members shall jointly and severally indemnify and hold the City and its officers and related parties harmless from any and all claims, actions, liabilities, damages, costs, expenses and fees (including reasonable attorneys fees) incurred by the City or such related parties in connection with the City's actions with respect to the Swim and Tennis Club unless such claims, etc. are attributable to the City's own gross negligence or intentional misconduct.

10.5 **Enforcement.** The Club Committee shall have a right, but not any duty or obligation, of enforcement of any Master or Neighborhood Association rights and duties hereunder. For that purpose, the Club Committee is a third party beneficiary of the Master Declaration and any Neighborhood Declaration as it relates to the Swim and Tennis Club.

10.5.1 If the Club Committee hereafter reasonably determines that the Neighborhood Association has failed or refused to discharge properly any of its obligations with regard to the Swim and Tennis Club, or that the need for maintenance, repair, replacement or insurance coverage of such is caused through the willful or negligent act of the Master or Neighborhood Association, the Club Committee may, but shall not in any way be obligated to, provide such maintenance, repair, replacement or coverage at the sole cost and expense of the Master or Neighborhood Association, jointly and severally.

10.5.2 Any cost or expense incurred by the Club Committee as a result of the Master or Neighborhood Association's failure to properly perform its duties hereunder shall constitute a lien on the interests of the Master or Neighborhood Association and of the Neighborhoods in the Tract and all Common Areas of any and all of the Neighborhoods (collectively the "Lien Areas"). Such lien upon the Lien Areas is prior to all other liens and encumbrances, recorded or unrecorded, affecting the Lien Areas.

10.5.3 The Master and Neighborhood Associations shall jointly and severally indemnify and hold the Club Committee and its officers and related parties harmless from any and all claims, actions, liabilities, damages, costs, expenses and fees (including reasonable attorneys fees) incurred by the Club Committee or such related parties in connection with the Club Committee's actions with respect to the Swim and Tennis Club unless such claims are attributable to the Club Committee's own gross negligence or intentional misconduct.

## XI. ASSESSMENTS

### 11. Master Assessments.

11.1 **Obligation of Members of Master Association.** Each Member of the Master Association shall pay to the MHOA its share of the Master Operating Expenses.



11.2 **Covenant to Pay.** Each Lot or Unit Owner, by virtue of accepting a deed or other document of conveyance to a Lot or Unit, hereby covenants and agrees to pay his share of all Master Operating Expenses and Master Assessments.

11.3 **Neighborhood Assessments.** Any Neighborhood Association may elect to have its Assessment included in the Master Assessment.

11.4 **Computation of Master Assessments.** The MHOA shall base the annual Master Assessments upon budgeted estimates of the Master Operating Expenses expected to be incurred during the coming calendar year, plus amounts required to establish an adequate reserve.

11.5 **Apportionment of Master Operating Expenses.** The Master Operating Expenses shall be allocated among all of the Members in accordance with the total percentage of ownership interest.

11.6 **Budget.** The MHOA shall prepare and furnish to each Member an operating budget for the MHOA for the coming calendar year at least thirty (30) days prior to the beginning of each year.

11.7 **Books and Records.** The MHOA shall (a) keep books and records in accordance with generally accepted accounting practices and (b) prepare monthly billing statements and/or ledgers for each Member detailing its share of the Operating Expenses and any other charges.

11.8 **Payment.** Master Assessments and each Member's share of the Master Operating Expenses shall be payable in twelve (12) equal monthly installments. Monthly invoices for each Member will be prepared by the MHOA. Payment of the Assessments must be made to the MHOA within thirty (30) days from the date the Invoice is delivered to the Member. A late fee of \$50.00 or 5% of the amount, whichever is greater, may be assessed on all late payments. Default interest at the rate of 1.5% per month may be charged on the outstanding balance on all delinquent accounts.

11.9 **Reserves.** The MHOA shall establish and fund a reasonable reserve account or accounts for unforeseen operating expenses, major repairs, and capital improvements. In the event the reserve account(s) fall below an amount considered acceptable by the Delegates, then, in its sole discretion and without any additional approval required, the MHOA may restore or replenish the account(s) by an equitable increase in the monthly Master Assessment, a special assessment, or any combination. The MHOA may elect to accelerate the entire Annual Master Assessment in the event of default.

11.10 **Capital Asset Table.** The Board of Delegates shall establish and update at least annually a Capital Asset Table which shall list each major asset and physical improvement for which the MHOA is responsible, its expected useful life, the present cost of replacement; the estimated cost to replace the item at the end of its useful life, the percentage and amount of each Assessment designated for the reserve account to replace the item at the end of its useful life, and the amount of money currently set aside in the reserve account for the replacement of the item.

11.11 **Analysis Report.** The Board of Delegates shall prepare and update at least annually a written Reserve Account Analysis, and make the report(s) available to the Owners at the annual meeting of the Association.

**ASSESSMENTS.**

11.12 **Miscellaneous Provisions.** The making and collection of Master Assessments by the MHOA from Owners of Lots or Units and Memberships for their share of Operating Common Expenses shall be made as follows and subject to the following provisions:

11.12.1 The common profits of the Property shall be distributed among, the common expenses shall be charged to, and the voting rights shall be available to, the Owners as follows:

11.12.1.1 Among the Residential Lot and Unit Owners on an equal basis regardless of Size; and

11.12.1.2 Among the Commercial Lot and Unit Owners based upon Size.

11.12.2 The MHOA shall levy Master Assessments against Members when requested by the Club Committee to cover expenses of the Swim and Tennis Club..

11.12.3 At least two separate and distinct funds shall be created and maintained hereunder, one for operating expenses and one for reserve expenses.

11.12.4 Master Assessments shall include both Regular Master Assessments and Special Master Assessments.

11.12.5 Until the MHOA makes an assessment for Operating Common Expenses, the Developer shall pay all Operating Common Expenses.

11.12.6 After an assessment has been made by the MHOA, Regular Master Assessments must be made at least annually, based on a budget adopted at least annually by the MHOA in accordance with the provisions of this Master Declaration and the Bylaws.

11.12.7 Regular Master Assessments shall be levied against each separate Lot, Unit or Membership, and shall commence as to all Lots, Units or Memberships in the Project on the first day of the month following the closing of the first sale of a Lot, Unit or Membership.

11.12.8 The MHOA shall levy Master Assessments against Owners of Memberships when requested by the Club Committee to cover expenses of the Swim and Tennis Club not associated with all Lots or Units in the Project.

11.12.9 The Board of Delegates may make equitable changes in the Regular Master Assessments during any calendar year; provided, however, the MHOA shall provide notice, by first class mail to all Owners, of any increase in the Regular Master Assessments not less than thirty (30) nor more than sixty (60) days prior to the date any modified Regular Common Assessment is due.

11.12.10 In addition to the Regular Master Assessments, the MHOA may levy in any fiscal year, Special Master Assessments applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any unforeseen expenditure or the construction or reconstruction, unexpected repair or replacement of a described capital improvement upon any Common Areas and Facilities, including the necessary fixtures and personal property related thereto, and other costs, expenses of operation or shortfalls in the collection of Master Assessments from the Owners.

11.12.11 However, in any fiscal year, except as otherwise provided in this Master Declaration, the Board of Delegates shall not, without the affirmative vote of Owners holding a majority of the Total Votes of the MHOA, at a meeting at which a quorum is present in person or by proxy, levy Special Master Assessments which in the aggregate exceed 20% of the budgeted gross expenses of the MHOA for that fiscal year.

11.12.12 The portion of any Special Common Assessment levied against a particular Lot, Unit or Membership shall be equal to the percentage of undivided interest in the Common Areas and Facilities appurtenant to such Lot, Unit or Membership.

11.12.13 These provisions with respect to the imposition or allocation of Special Master Assessments shall not apply when the special assessment is to pay an increase in real property taxes or when the special assessment against an Owner is a remedy utilized by the Board of Delegates to reimburse the MHOA for costs incurred in bringing the Owner and/or his Lot, Unit or Membership into compliance with the provisions of this Master Declaration, the Bylaws, rules and regulations of the MHOA, the Swim and Tennis Club Rules, Policies and Procedures, or any other governing instrument for the Project.

11.12.14 The MHOA shall also levy such Special Master Assessments against Members as may be certified to it by the MHOA or Club Committee.

11.12.15 The Board of Delegates shall provide notice by first class mail to all Owners or Members of any Special Master Assessments not less than thirty (30) nor more than sixty (60) days prior to the date such Assessment is due.

11.12.16 To the extent permitted by law, Developer may pay the MHOA an amount less than its proportionate share of Operating Common Expenses or other permitted Master Assessments for which it owes, provided Developer has executed a subsidy agreement requiring Developer to pay monies which are sufficient, together with the Master Assessments paid by all other Owners, to enable the MHOA to timely pay all of the Operating Common Expenses or other expenses associated with the Swim and Tennis Club. Any subsidy agreement

shall require Developer to pay its full proportionate share of all reserves for replacement and capital improvements assessed against the Lots or Units and Memberships which it owns.

11.12.17 All Master Assessments shall be due as determined by the Board of Delegates.

11.12.18 Master Assessments and any installments thereof not paid on or before thirty (30) days after the date when due shall bear interest at the rate of eighteen percent (18%) per annum, or at such lower rate of interest as may be set by the Board of Delegates, from the date when due until paid.

11.12.19 Owners or Members who do not pay their Master Assessments when due shall be subject to a late fee of up to \$50.00 or 5% of the amount of the payment, whichever is greater, adjustable from year to year at the discretion of the Board of Delegates pursuant to the Cost of Living Index.

11.12.20 All payments of Master Assessments shall be first applied to accrued interest and late fees, and then to the Common Assessment payment first due.

11.12.21 All Master Assessments to pay a judgment against the MHOA may be made only against the Lots, Units or Memberships in the Project at the time the judgment was entered, in proportion to their liabilities for Operating Common Expenses.

11.12.22 If any Operating Common Expense is caused by the misconduct of any Owner, the MHOA may assess that expense exclusively against such Owner's Lot or Unit(s) or Membership(s).

11.12.23 If the percentage are reallocated, Master Assessments for Operating Common Expenses and any installment thereof not yet due must be recalculated in accordance with the reallocated percentage interests.

11.12.24 There shall be a lien upon the applicable Lot, Unit or Membership for all unpaid Master Assessments, together with late fees, interest and costs (including attorneys' fees) charged pursuant to the Master Declaration and this Master Declaration.

11.12.25 The lien for unpaid Master Assessments and related charges shall be effective upon recordation in the Office of the County Recorder of a written notice of lien by the Board of Delegates or the Common Area Manager.

11.12.26 The written notice of lien shall set forth the amount of the Common Assessment, the date(s) due, the amount remaining unpaid, the name of the Owner of the Lot, Unit or Membership and a description of the Lot, Unit or Membership.

11.12.27 Every Owner and Member shall pay his proportionate share of the Master Operating Expenses. Any Assessment levied against each Unit, Lot or Membership is a

debt of the Owner and/or Member at the time the Assessment is made and is collectible as such. If any Owner or Member fails or refuses to pay an Assessment when due, that amount constitutes a lien on the interest of the Owner or Member in the Property, and upon the recording of notice of lien, it is a lien upon the Owner's or Member's interest in the Property prior to all other liens and encumbrances, recorded or unrecorded, except:

- (i) tax and special assessment liens on the Lot, Unit or Membership in favor of any assessing unit or special improvement district; and
- (ii) encumbrances on the interest of the Owner or Member recorded prior to the date such notice is recorded which by law would be a lien prior to subsequently recorded encumbrances.

Such lien may be enforced by sale or foreclosure conducted in accordance with the provisions of law applicable to the exercise of powers of sale or foreclosure in deeds of trust or mortgages or in any other manner permitted by law including specifically, but without limitation, the method recognized under the laws of the state of Utah for the enforcement of a mechanics lien which has been established in accordance with the provisions of Chapter 1, Title 38, Utah Code, as amended from time to time.

11.12.28 In any such foreclosure, the Owner shall be required to pay the costs and expenses of such proceeding (including reasonable attorneys' fees), and such costs and expenses shall be secured by the lien being foreclosed.

11.12.29 The Owner shall also be required to pay to the MHOA any Master Assessments against the Lot, Unit or Membership which shall become due during the period of foreclosure, and all such Master Assessments shall be secured by the lien being foreclosed.

11.12.30 The Board of Delegates shall have the right and power in behalf of the MHOA to bid in at any foreclosure sale and to hold, lease, mortgage or convey the subject Lot, Unit or Membership in the name of the MHOA.

11.12.31 In furtherance of such foreclosure rights, the MHOA may bring an action at law against the Owner personally obligated to pay the same or the MHOA may foreclose the lien in accordance with the provisions of the Utah Condominium Ownership Act (Title 57, Chapter 8, Utah Code).

11.12.32 The MHOA and each Owner hereby appoint James R. Blakesley, its attorney and his successors and/or assigns, as trustee for the purpose of exercising the power of sale in connection with non-judicial foreclosures as provided in Title 57, Chapter 1, Utah Code and made applicable hereto by Title 57, Chapter 8, Utah Code.

11.12.33 The MHOA reserves the right to substitute and appoint a successor trustee as provided for in Title 57, Chapter 1, Utah Code. Each Owner hereby conveys all of its right, title and interest in its Lot, Unit or Membership to such trustee, in trust, with a power of

sale, to secure each Owner's obligations under the Master Declaration, including but not limited to the obligation to pay all Master Assessments.

11.12.34 The MHOA may, through its duly authorized agents, bid on the Lot, Unit or Membership at any foreclosure sale and acquire, hold, lease, mortgage and convey the same.

11.12.35 The lien of the MHOA shall be superior to all other liens and encumbrances except liens and encumbrances recorded before recordation of this Master Declaration, a First Mortgage on a Lot, Unit or Membership as provided for herein and Master Assessments, liens and charges in favor of the state or any political subdivision thereof, for taxes and other governmental Master Assessments or charges past due and unpaid on the Lot, Unit or Membership.

11.12.36 The lien procedures described herein do not prohibit actions to recover sums for which this Master Declaration creates a lien or prohibit the MHOA from taking a deed in lieu of foreclosure.

11.12.37 Any first mortgagee who obtains title to a Lot or Unit pursuant to the remedies in the mortgage or through foreclosure will not be liable for more than six (6) months of the unpaid regularly budgeted Master Assessments, dues or charges accrued before acquisition of the title to the property by the mortgage. The mortgagee will also be liable for any reasonable attorneys fees or costs related to the collection of the unpaid dues

11.12.38 The Board of Delegates, upon written request, shall furnish to an Owner a statement setting forth the amount of unpaid Master Assessments against the Lot, Unit or Membership. This statement must be furnished within ten (10) business days after receipt of the request and is binding on the MHOA, the Board of Delegates, the Common Area Manager and every Owner, in favor of all who rely on such statement in good faith.

11.12.39 The amount of any Common Assessment against any Lot, Unit or Membership shall be the personal obligation of the Owner of such Lot, Unit or Membership to the MHOA.

11.12.40 Suit to recover a money judgment for such personal obligation shall be maintainable by the MHOA without foreclosing or waiving the lien securing the same.

11.12.41 No Owner may avoid or diminish any such personal obligation by waiver of the use and enjoyment of any of the Common Areas and Facilities or by abandonment of his Lot, Unit or Membership or by waiving any services or amenities provided for in this Master Declaration.

11.12.42 In the event of any suit to recover a money judgment of unpaid Master Assessments hereunder, the involved Owner shall pay the costs and expenses incurred by the MHOA in connection therewith, including reasonable attorneys' fees.

11.12.43 In a voluntary sale, transfer, conveyance, exchange or assignment, the personal obligation of an Owner or Member to pay unpaid Master Assessments against his Lot, Unit or Membership shall also pass to his successors in title.

11.12.44 A lien to secure unpaid Master Assessments shall not be affected by the sale or transfer of the Lot, Unit or Membership unless foreclosure by a First Mortgagee is involved in which case the foreclosure will extinguish the lien for any Master Assessments that were payable before the foreclosure sale, but shall not relieve any subsequent Owner from paying further Master Assessments.

11.12.45 The MHOA through the Board of Delegates shall include in the Master Assessments amounts representing sums to be used for major Repairs, the replacement of or additions to capital items or improvements in the Project. Said amounts shall be dedicated for the uses provided in this Section and shall be set up as reserve accounts for each Lot, Unit or Membership.

11.12.46 In the event of transfer of a Lot, Unit or Membership, the reserve account for such Lot, Unit or Membership shall be deemed transferred to the transferee of the Lot, Unit or Membership.

11.12.47 The Board of Delegates shall not expend funds designated as reserves for any purpose other than unforeseen expenses or the repair, restoration, replacement or maintenance of major components of the Common Areas and Facilities for which the MHOA is responsible and for which the reserve fund was established or for litigation involving such matters.

11.12.48 The Board of Delegates shall exercise prudent fiscal management in the timing of restoring any transferred funds to the reserve account and shall, if necessary, levy a Special Common Assessment to recover the full amount of the expended funds within the time limit specified above.

11.12.49 At least once every three (3) years the Board of Delegates shall cause a study to be conducted of the reserve account of the MHOA and its adequacy to satisfy anticipated future expenditure requirements. The Board of Delegates shall, thereafter, annually review the reserve account study and shall consider and implement necessary adjustments to reserve account requirements and funding as a result of that review. Any reserve account study shall include, at a minimum:

11.12.50 Identification of the major components which the MHOA is obligated to repair, replace, restore or maintain which, as of the date of the study, have a useful life of less than 30 years.

11.12.51 Identification of the probable remaining useful life of the components identified above, as of the date of the study.

11.12.52 An estimate of the cost of repair, replacement, restoration or maintenance of each major component identified above, during and at the end of its useful life.

11.12.53 An estimate of the total annual contribution necessary to defray the cost to repair, replace, restore or maintain each major component during and at the end of its useful life, after subtracting total reserve funds as of the date of the study.

11.12.54 For the purposes of this Section, the term "reserve account requirements" means the estimated funds which the Board of Delegates has determined are required to be available at a specified point in time to repair, replace or restore those major components which the MHOA is obligated to maintain.

11.12.55 If an Owner shall at any time lease or rent his Lot or Unit and shall default in the payment of Master Assessments, the Board of Delegates may, at its option, so long as such default shall continue, demand and receive from any tenant of the Owner the rent due or becoming due, and the payment of such rent to the Board of Delegates shall be sufficient payment and discharge of such tenant and the Owner for such Master Assessments to the extent of the amount so paid.

11.12.56 No Owner or Member may waive or otherwise exempt himself or herself from liability for the payment of his share of the Master Operating Expenses or his Regular or Special Common Master Assessments provided for herein, including but not limited to his non-use or abandonment of his Lot, the Common Areas and Facilities, or the Swim and Tennis Club.

11.12.57 Anything to the contrary notwithstanding, any first mortgagee who obtains title to a Lot or Unit pursuant to the remedies in the mortgage or trust deed or through foreclosure will not be liable for more than six (6) months of the unpaid regularly budgeted assessments, dues or charges accrued before acquisition of the title to the property by the mortgage, although the first mortgagee will also be liable for any reasonable attorneys fees or costs related to the collection of the unpaid dues. All other grantees who obtain title to a Lot or Unit in a voluntary conveyance or pursuant to the remedies in a mortgage or trust deed or through foreclosure shall be jointly and severally liable with the trustor or mortgagor for all unpaid assessments, late fees, default interest and collection costs, including a reasonable attorneys fee, against the Lot or Unit for its share of the Common Expenses up to the time of the grant or conveyance, without prejudice to the grantee's rights to recover from the trustor or mortgagor the amounts paid by the grantee.

11.12.58 Anything to the contrary notwithstanding, the annual assessment for each Member of the Swim and Tennis Club for its operation and management shall be determined by the Club Committee, including the annual assessment for each Equity Member. The annual assessment of each Preferred Member shall be a sum equal the annual assessment for an Equity Member. The annual assessment of each Equity Member/ Owner of a Townhome Unit shall be a sum equal the annual assessment for an Equity Member. The annual assessment



of each Equity Member/Owner of a Loft Unit shall be as follows; a single resident will be assessed 1/3 of the annual assessment for an Equity Member, two residents living in a single Loft Unit will be assessed 2/3 of the annual assessment, and 3 or more residents living in a single Loft Unit will be charged the full annual assessment. The annual assessment of each Corporate Member shall be 1/3 of the annual assessment for an Equity Member. In the event of a conflict between this provision and any other assessment provision in this Master Declaration, the former shall in all respects govern and control.

## XII. INITIAL USE RESTRICTIONS

12.1 **General.** Subject to the Developmental Rights, the Lots, Units, Common Areas and Facilities, including but not limited to the Limited Common Areas and Facilities, and the Swim and Tennis Club, except as otherwise expressly permitted in writing by the MHOA, shall be used in accordance with the following restrictions:

12.1.1 Except to the extent specifically permitted by this Master Declaration, Owners shall not make any commercial use of the Residential Lots or Units, or any portion thereof, with the exception of the rental of the property, subject to rules and regulations enacted by the Board of Delegates; provided, however, that nothing in this subsection shall prevent Developer or an affiliated entity or a duly authorized agent from using any Lot or Unit owned or leased by Developer as sales offices and model units or a property management office or for other commercial purposes.

12.1.2 Use of the Lots, Units and the Swim and Tennis Club shall be pursuant to the Project Documents, rules and regulations of the MHOA or Club Committee, Swim and Tennis Club Rules, Policies and Procedures, as each document may be amended from time to time.

12.1.3 Subject to the payment of all Regular or Special Common Master Assessments and other charges approved by the MHOA and levied against the Owners and Members, and subject to compliance with the provisions of this Master Declaration, with the Swim and Tennis Club Rules, Policies and Procedures and with rules and regulations promulgated from time to time by the MHOA or Club Committee, each Owner and Member shall have the right with all other Owners and Members to occupy and use the Lots, Units, Common Areas and Facilities, and the Swim and Tennis Club.

12.1.4 No Owner shall erect or construct, in the Common Areas and Facilities, any structure of any type whatsoever without the prior written approval of the Board of Delegates.

12.1.5 No Owner shall place, store, keep or permit to be placed, stored or kept, upon the Common Areas and Facilities any personal property, including, but not limited to, vehicles of any type except pursuant to the rules and regulations of the MHOA without the prior written approval of the Board of Delegates.

12.1.6 Except as expressly provided in this Declaration, no Owner of a Membership shall have the right to redecorate or make alterations or repairs to the Common Areas and Facilities, Swim and Tennis Club or Club Furnishings, nor shall any Owner have the right to subject the Common Areas and Facilities or Swim and Tennis Club, or any portion thereof, to any liens for the making of improvements or repairs to the Common Areas and Facilities or Swim and Tennis Club, or any portion thereof. The provisions of this Section are intended to benefit and protect the City, First Mortgagees as well as Owners and Members and may be enforced by the City, any First Mortgagee, the Board of Delegates or by an aggrieved Owner or Member.

12.1.7 No noxious or offensive activity shall be carried on, in or about the Property, nor shall anything be done or permitted thereon which may be or may become an annoyance, disturbance, bother or nuisance to the neighborhood, or which might interfere with the right of other residents to the quiet and peaceful enjoyment of their property. Normal construction activities shall not be considered to violate the terms and conditions of this subsection and by accepting a deed to a Lot, Unit or Membership, an Owner or Member acknowledges that noises, lights and odors common to recreational and commercial activities, as well as construction activities, may exist on or near the Property, at any time and from time to time.

12.1.8 No activities shall be conducted, or improvements constructed, in or upon any part of the Project which are or may become unsafe or hazardous to any person or property.

12.1.9 No signs, flags or advertising devices of any nature, including, without limitation, for sale or for rent signs, political, informational or directional signs or devices, shall be erected or maintained on any part of the Project, except as may be necessary temporarily to caution or warn of danger, or as may be used by Developer as part of its sales program, except to advertise the Project, or except as otherwise approved by Developer or, after expiration of the Period of Developer's Control, the Board of Delegates. No signs, billboards or advertising structures or devices of any kind may be built, installed or displayed on the Property or any Lot. A single sign with a maximum size of 2' x 2' for specific purpose of advertising the sale of a Dwelling Unit may be allowed by the ARC. "For Rent" or "For Lease" signs in the Common Area, on a Lot, or showing from a Unit are strictly prohibited. These restrictions do not apply to and are not binding upon the Developer, who may use whatever signs it deems appropriate to market its Lots.

12.1.10 Large animals as that term is defined by City Ordinance are not allowed. No pets, animals, livestock, or poultry of any kind may be commercially bred at the Project. Up to two (2) domestic pets as that term is defined by West Jordan City Ordinance per Lot are allowed; provided, however, pets must be properly licensed and registered. Pets may not create a nuisance. The following acts may constitute a nuisance: (1) causing damage to the property of anyone other than the pet owner; (2) causing unreasonable fouling of the air by odors; (3) causing unsanitary conditions; (4) running loose throughout the Project and not in a cage or on a leash and under the control of a responsible person; (5) barking, howling, whining,

or making other disturbing noises in an excessive, continuous or untimely fashion; (6) molesting or harassing passersby by lunging at them or chasing passing vehicles; (7) attacking or threatening to attack people or other domestic animals; (8) otherwise acting so as to bother, annoy or disturb the sensibilities of a reasonable person or interfering with the right of residents to the peaceful and quiet enjoyment of their property; or (9) the mere number of pets maintained creates an offensive or dangerous condition to the health, welfare or safety of other residents.

12.1.11 No smoking is permitted within the Swim and Tennis Club.

12.1.12 Owners and Members shall not, and shall not permit their Guests to litter.

12.1.13 No burning trash, garbage or other waste materials will be permitted on the Property. The Tract, including the individual Lots and Units, shall be used as a dumping ground. All trash, garbage, debris, rubbish or other waste shall be kept in a sealed, sanitary bag or container, and stored out of sight, except for a twenty-four (24) hour period on pick-up days.

12.1.14 The Board of Delegates shall have the right to establish rules requiring window coverings to present a uniform appearance or common design scheme from the exterior of Buildings.

12.1.15 No Residential Unit shall be used to accommodate more persons than it was designed to accommodate comfortably and safely.

12.1.16 Except as otherwise permitted by this Declaration, no Owner shall, without the prior written consent of the Board of Delegates, make or permit to be made any alteration, improvement or addition in or to any Lot or Unit.

12.1.17 No Owner shall, without the prior written consent of the Board of Delegates, do any act that would impair the structural soundness or integrity of the Buildings or the safety of property, impair any easement or hereditament appurtenant to the Project, or make or permit to be made any alteration, improvement or addition to the Common Areas and Facilities.

12.1.18 Nothing shall be done or kept in any Lot, Unit or in the Common Areas and Facilities or any part thereof which would result in cancellation of the insurance on the Project or any part thereof, nor shall anything be done or kept in any Lot or Unit which would increase the rate of insurance on the Project or any part thereof over what the MHOA but for such activity, would pay, without the prior written consent of the Board of Delegates.

12.1.19 Nothing shall be done or kept in any Lot or Unit or in the Common Areas and Facilities or any part thereof which would be in violation of any statute or rule, ordinance, regulation, permit or other validly imposed requirement of any governmental body.

12.1.31 No damage to, or waste of, the Common Areas and Facilities or any part thereof shall be committed by any Owner, Member, Guest, tenant, visitor or invitee, and each Owner or Member shall indemnify and hold the MHOA and the other Owners or Members harmless against all loss resulting from any such damage or waste caused by him or his Guests, tenants, visitors, or invitees.

12.1.21 No Owner shall violate the rules and regulations for the use of Lots, Units and Common Areas and Facilities as adopted from time to time by the MHOA.

12.1.22 All leases, residential or commercial, are subject in all respects to the Project Documents and any failure by the lessee to comply with the terms of such documents shall be considered a material default under the lease. All such lease agreements shall be in writing. All leases are subject to rental rules and regulations adopted by the Board of Delegates, as they may be amended from time to time. An Owner shall be responsible and liable for any damage to the Project caused by his lessee, renter or tenant. Regarding the leasing or rental of Dwelling Units, the following additional restrictions apply:

12.1.22.1 No Owner may lease or rent his Dwelling Unit for a period of one (1) year from the date of closing.

12.1.22.2 No Owner shall be permitted to lease his Dwelling Unit for short term, transient, hotel, vacation, seasonal or corporate use purposes. For purposes of this section the term "short term" shall be considered to be any rental with an initial term of less than six (6) months. Daily or weekly rentals are expressly prohibited. No Owner may lease individual rooms to separate Persons or less than his entire Dwelling Unit, including by way of illustration but not limitation letting a room to domestic help or a caretaker, without the prior express written consent of the Management Committee.

12.1.22.3 "For Rent" or "For Lease" signs are prohibited.

12.1.22.4 The Management Committee must approve in writing all lease and rental agreements as to form. Any lease or rental agreement not approved or in violation of the Project Documents shall be considered "non-conforming" and, as such, voidable by the Management Committee.

12.1.22.5 The Association may also require that Owners use lease forms or addenda, such as the Crime Free Addendum or the Project Addendum, approved by the Association (or include specific terms in their leases); and the ARC may impose a review or administration fee on the lease or transfer of any Lot.

Other than the foregoing, there is no restriction on the right of any Owner to lease his property.

12.1.23 By accepting title to a Lot, Unit or Membership, each Owner, for himself and for his heirs, successors-in-title and assigns, does absolutely and forever waive any right to seek or obtain physical partition of the property, or any portion thereof, and does further

waive the right to seek or obtain partition of the property by means of the sale of thereof, in whole or in part, unless the institution of such suit or action for partition has been approved by the affirmative vote of the same number of Owners that would be required to sell all or any portion of the Project pursuant to and in compliance with this Master Declaration and the Developer, if Developer still then retains the right to control the MHOA. Notwithstanding the foregoing, there shall be no limitation on judicial sale in lieu of partition in the case of co-owners of individual Lots, Units or Memberships.

12.1.24 It is intended that this Declaration alone, incorporating by reference the Bylaws, Articles, Swim and Tennis Club Rules, Policies and Procedures, shall govern all rights with respect to the use, possession, enjoyment, management and disposition of the Property. Accordingly, all rights with respect to the use, possession, enjoyment, management and disposition of the property which an Owner might otherwise have as a tenant-in-common (including, but not limited to, any common law or statutory right jointly to use, possess or manage commonly owned property), are hereby unconditionally and irrevocably subordinated to this Master Declaration for so long as this Master Declaration and related Project Documents and the Swim and Tennis Club created hereby shall remain in effect.

12.1.25 The following fencing is expressly prohibited: Front yard fencing of any kind (the only exceptions may be on corner lots and/or collector roads if approved in writing by the Board of Delegates), fencing inside fencing, fencing (including by way of illustration but not limitation all hedges, trees, bushes, shrubs or other animate or inanimate, natural or artificial objects) behind entry monuments and other monuments, planter boxes or special landscaping established by the Developer, spite fences, and any other fencing not expressly approved by the Board of Delegates in writing. No fence or similar structure shall be placed in any side or rear yard in excess of six (6) feet. Vinyl fencing is allowed without additional approval required. Wood, masonry and wrought iron fencing may be allowed with the express prior written consent of the ARC, although approval may be denied. Chain link fencing is strictly prohibited. If there is a dispute as to what constitutes the front, side or rear yards, or whether a variance has been granted, the decision of the ARC shall be final, binding and conclusive.

12.1.25 All exterior aerials, antenna and satellite dishes (collectively "antenna") must be positioned so that they are screened from view from the street. No antenna shall be erected, maintained or used in, on or about any Dwelling, outdoors and above ground, whether attached to or on top of any building, structure, Dwelling, or otherwise, within the Project without the prior written consent of the Developer or ARC, which shall not be unreasonably withheld. If there is a conflict between this subsection and the FCC guidelines, the latter shall in all respects govern and control. In making its decisions, the Developer and/or ARC shall abide by and be subject to all relevant local, state and federal laws, including but not limited to all FCC guidelines, rules and regulations as they may be amended or supplemented from time to time.

12.1.26 In a Residential Unit, no resident may operate a commercial trade or business in or from his Unit with employees of any kind or with customers who are not

residents of the Project, or which create or maintain a nuisance. No commercial trade or business may store any inventory over 250 cubic feet, and it must be contained within the Unit. No commercial trade or business may be conducted in or from a Unit unless (a) the business activity conforms to all home occupation and zoning requirements governing the Project; (b) the operator has a city issued business license; (c) the business activity satisfies the Home Occupation Guidelines adopted by the ARC, as they may be modified from time to time; and (d) the resident has obtained the prior written consent of the ARC. Notwithstanding the foregoing, the leasing of a Unit shall not be considered a trade or business within the meaning of this subsection.

12.1.27 The driving, parking and storage of motor vehicles within the Tract are subject to the following:

12.1.27.1 No motor vehicle or trailer, including but not limited to any car, automobile, truck, van, or any other transportation device of any kind may be parked or stationed in such a manner so as to block access to any driveway or Dwelling or to create an obstacle or potentially dangerous condition.

12.1.27.2 No Resident shall repair or restore any vehicle of any kind in, on or about any Lot, except for emergency repairs, and then only to the extent necessary to enable movement thereof to a proper repair facility.

5.1.2.1.3 No garage may be altered in such a manner that the number of motor vehicles which may reasonably be parked therein after the alteration is less than the number of motor vehicles that could have been reasonably parked in the garage as originally designed and constructed.

12.1.27.4 All garages shall be used primarily for the parking and storage of vehicles.

12.1.27.5 Parking on the street is prohibited.

12.1.27.6 All motor vehicles parked so as to be visible from the street or another Lot must be undamaged (less than \$1,000.00 to repair), in good mechanical condition, registered, and licensed.

12.1.27.7 Except as otherwise expressly permitted, motor vehicles may not be "stored" so as to be visible from the street or another Dwelling. This includes by way of illustration but not limitation unregistered, unlicensed, abandoned, disabled, or damaged (\$1,000 +) motor vehicles.

12.1.27.8 Except for purposes of loading or unloading passengers or supplies, for a period of time not to exceed twenty-four (24) hours, all Recreational, Commercial, and Oversized Vehicles may be stored on a properly constructed Parking Pad provided (a) the Vehicle is in good running condition and properly licensed and registered, (b) the Parking Pad is

located in the rear yard (i.e., behind the front of the house), and (c) a proper Parking Pad Fence has been installed. Eighteen-wheel semi trailers and similar oversized transportation devices are not allowed.

12.1.27.9 Eighteen wheeled semi-trailers or other similar transportation devices are not allowed.

12.1.27.10 Vehicles parked in violation of this Declaration may be immobilized, impounded, or towed by the ARC or its designee without further notice and at the owner's sole risk and expense.

12.1.28 If an Owner purchases a Lot which includes a common improvement, including by way of illustration but not limitation an Entry, Entry Monument, planter, planter box, planter strip, perimeter fence, wall, street light, exterior lighting or other landscaping treatment of any kind, shall, at his sole expense, maintain such common elements in good condition, and may not improve his property or place any plant, hedge, tree, bush, shrub or object, natural or artificial, behind, to the side or in front of such improvement or feature or so as to impair, obstruct, block or impede the view or purpose of the Entry, Entry Monument or other improvement, planter box, landscaping strip, or any such special landscaping feature.

12.1.29 Chimes, dream catchers, bells, tubes or other objects hung vertically outside a Unit or Building which ring, strike or otherwise produce musical sounds or harmony heard by other residents are prohibited.

12.1.30 Neither the Developer nor the ARC guarantees or represents that any view over and across any property, including any Lot or Building will be preserved without impairment. Neither the Developer nor the ARC shall have the obligation to prune or thin trees or other landscaping except as set forth herein. Any express or implied easements for view purposes or for the passage of light and air are hereby expressly disclaimed.

12.1.31 The Developer may provide water and power utility services to the Entry, Entry Monument and other common elements at its expense (the "Common Utility Service"). Such Common Utility Service shall be maintained and paid for by the ARC as a Common Expense; provided, however, the Developer ARC may elect to provide such Common Utility Services through a meter or meters on an individual Lot or Lots and, if so, each such Owner agrees, by accepting a deed or other document of conveyance to such Lot, to provide, and not terminate, delay or interrupt, those Common Utility Services to the Entry, Entry Monument or other common elements not separately metered and billed to the ARC by the provider, although in such circumstance the Owner of each such Lot shall be entitled to the following credits:

12.1.31.1 A monthly credit an amount equal to the difference between the water bill for each such Lot and the average water bill for all of the other Lots in the Project; and

12.1.31.2 A monthly credit in an amount equal to the greater of (1) \$5.00 or (2) a sum equal to the number of watts in the light bulb, multiplied by the Kilowatt rate of the local power company, multiplied by 4,000, divided by 1,000, and divided by 12.

12.1.32 No structure, plant, improvement or other material may be placed or permitted to remain, or other activities undertaken which may damage or interfere with established Lot ratios, create erosion or sliding problems, or which may change the direction or flow of drainage channels, or obstruct or retard the flow of water through the channels.

12.1.32.1 The slope control area of each Lot and all improvements therein shall be maintained continuously by the Owner of the Lot, excepting those improvements for which a public authority or utility company is expressly responsible.

12.1.33.2 It shall be the responsibility of the Owner to see that his Lot strictly conforms with the grading and drainage plan established by the Developer, Utah County and the City.

12.1.33 Nothing shall be done or kept in, on or about any Lot or any part thereof, which would be a violation of any statute, rule, ordinance, regulation, permit or other validly imposed requirement of any governmental body.

12.1.34 Each Owner shall repair any damage he, his Guests or Permittees may cause to another Owner, Lot, or Dwelling, and promptly restore the property to its original condition.

12.1.35 All land use and buildings shall be in compliance with all zoning and land use ordinances as well as all regulations of the municipalities and agencies governing the Project land use and buildings.

12.1.36 No structure of a temporary nature or character, including but not limited to any trailer, shack, shed, tent, garage, barn or other out-building shall be used on any Lot at any time as a residence.

### **XIII. TERMINATION**

13.1 **Termination.** The Project may be terminated only by the unanimous agreement of all Lots or Units.

13.2 **Recording of Notice of Removal.** All of the Owners may remove the Project from the provisions of the Master Declaration by an instrument duly recorded to that effect, provided that the holders of all liens affecting any of the Lots, Units or Memberships consent or agree by instruments duly recorded that their liens are transferred to the undivided ownership interest of the Owners in the Project. Provided further, as long as Developer has ownership rights in the Project, its consent shall also be required to remove the Project from the provisions of this Master Declaration. Upon removal of the Project from the provisions of this Master



Declaration, the Project shall be deemed to be owned in common by the Owners; provided, however, the Swim and Tennis Club shall be deemed to be owned in common by the Members. The undivided interest in the Project owned in common which shall appertain to each Owner or Member shall be the percentage of undivided interest previously owned by such Owner in the Common Areas and Facilities or Member in the Swim and Tennis Club.

**13.3 Termination Agreement.** A termination agreement may provide that all of the Project shall be sold following termination. If, pursuant to the agreement, any real estate in the Project is to be sold following termination, the termination agreement shall set forth the minimum terms of the sale.

**13.4 Master Association as Agent.** The MHOA, on behalf of the Owners or Members, may contract for the sale of real estate in the Project or a Membership in the Swim and Tennis Club, but the contract is not binding on the Owners until approved pursuant to this Master Declaration. If any real estate in the Project or Membership is to be sold following termination, title on termination vests in the MHOA as trustee for all Owners and Members. Thereafter, the MHOA has all powers necessary and appropriate to effect the sale. Until the sale has been concluded and the proceeds of the sale distributed, the MHOA continues in existence with all powers it had before termination. Proceeds of the sale shall be distributed to Owners, Members and Mortgagees as their interests may appear, based on the relative value of each Lot, Unit or Membership. Unless otherwise specified in the termination agreement, as long as the MHOA holds title to the property, each Owner or Member and their successors in interest have an exclusive right to occupancy of the portion of the real estate that formerly constituted their Lot or Unit or use of that Membership in accordance with the terms of this Master Declaration. During the period of that right of occupancy or use, each Owner or Member and their successors in interest remain liable for all Master Assessments and other obligations imposed on Owners or Members by this Master Declaration.

**13.5 Master Association as Trustee.** Following termination of the Project, the proceeds of any sale of real estate or Membership, together with the assets of the MHOA, shall be held by the MHOA as trustee for Owners, Members and Mortgagees as their interests may appear.

**13.6 Mortgagees.** Following termination, Mortgagees holding Mortgages on the Lots, Units or Memberships which were recorded before termination may enforce those liens in the same manner as any lienholder.

**13.7 Common Areas and Facilities.** In the event of the dissolution of the MHOA, the MHOA Property shall be transferred to a nonprofit corporation, trust, or other entity to be used for such similar purposes, and each owner shall continue to be obligated to make assessment payments for the maintenance and upkeep of the Common Areas and Facilities and improvements on a pro rata basis which conforms substantially with the assessment procedure, terms and conditions set forth herein. To the extent the foregoing is not possible, the Common Areas and Facilities shall be sold or disposed of and the proceeds from the sale or disposition shall be distributed to Owners as tenants in common.

#### **XIV. DISPUTE RESOLUTION AND LIMITATION ON LITIGATION AGREEMENT TO AVOID COSTS OF LITIGATION**

**14.1 General.** The MHOA, Developer, Board of Delegates, Club Committee, all Owners and Members subject to this Master Declaration, and any person not otherwise subject to this Master Declaration who agrees to submit to this Section (collectively, "Bound Parties") agree to encourage the amicable resolution of disputes involving the properties at the Project, and to avoid the emotional and financial costs of litigation if at all possible. Accordingly, each Bound Party covenants and agrees that all claims, grievances or disputes between such Bound Party and any other Bound Party involving properties at the Project, including, without limitation, claims, grievances or disputes arising out of or relating to the interpretation, application or enforcement of this Master Declaration or the Project Documents (collectively "Claim"), except for those Exempt Claims authorized under this Section, shall be subject to the procedures set forth herein.

#### **14.2 Exempt Claims.**

Any Bound Party having an Exempt Claim (as defined below) may submit it to the alternative dispute resolution procedures set forth in this Section, but there shall be no obligation to do so. The following Claims ("Exempt Claims") shall be exempt from the provisions of hereof:

**14.2.1** Any suit by Developer against any Bound Party to enforce the provisions of this Master Declaration or to enforce any of Developer's developmental rights set forth in this Master Declaration, including any defensive or responsive actions by the party against whom this Master Declaration is taken; Any suit by the MHOA against any Bound Party to enforce the provisions of this Master Declaration, including any defensive or responsive actions by the party against whom this Master Declaration is taken;

**14.2.2** Any suit by the MHOA 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 MHOA's ability to enforce the provisions of this Master Declaration, including any defensive or responsive actions by the party against whom this Master Declaration is taken;

**14.2.3** Any suit between Owners (other than the Developer) seeking redress on the basis of a Claim which would constitute a cause of action under the law of the State of Utah in the absence of a claim based on the Project Documents, if the amount in controversy exceeds \$20,000.00; and

**14.2.4** Any suit or enforcement action or exercise of any right or remedy under or in respect of any Mortgage, any indebtedness secured by such Mortgage or any other

document or agreement executed in connection with such Mortgage or in respect of any right provided herein with respect to such Mortgage.

**14.3 Mandatory Procedures for All Other Claims.** Any Bound Party having a Claim (“Claimant”) against any other Bound Party (“Respondent”) other than an Exempt Claim, shall not file suit in any court or initiate any proceeding before any administrative tribunal seeking redress or resolution of such Claim until it has complied with the following procedures:

**14.4 Notice.** The Claimant shall notify each Respondent in writing of the Claim (“Notice”), stating plainly and concisely:

14.4.1 The nature of the Claim, including date, time, location, person involved, Respondent’s role in the Claim;

14.4.2 The basis of the Claim (i.e., the provision of the Master Declaration, Project Documents, or other authority out of which the Claim arises);

14.4.3 What Claimant wants Respondent to do or not to do to resolve the Claim;  
and

14.4.4 That Claimant wishes to resolve the Claim by mutual agreement with Respondent, and is willing to meet in person with Respondent at a mutually agreeable time and place to discuss in good faith ways to resolve the Claim.

**14.5 Good Faith Negotiation.** Each Claimant and Respondent (“Parties”) shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation. Upon receipt of a written request from any Party, accompanied by a copy of the Notice, the Board of Delegates may appoint a representative to assist the Parties in resolving the dispute by negotiation, if in its discretion it believes its efforts will be beneficial to the Parties and to the welfare of the Project.

**14.6 Final and Binding Arbitration.** If the Parties do not resolve the Claim through negotiation within thirty (30) days of the date of the Notice (or within such other period as may be agreed upon by the Parties) (“Termination of Negotiations”), the Claimant shall have thirty (30) days following Termination of Negotiations to submit the Claim to arbitration in accordance with the Rules of Arbitration maintained on file in the office of the MHOA or the Claim shall be deemed abandoned, and Respondent shall be release and discharged from any and all liability to Claimant arising out of such Claim; provided, nothing herein shall release or discharge Respondent from any liability to Persons not a Party to the foregoing proceedings.

**14.7 Arbitration Award.** This constitutes an agreement of the Bound Parties to arbitrate all Claims except Exempt Claims and is specifically enforceable under the applicable Utah arbitration law. The arbitration award (the “Award”) shall be final and binding, and judgment may be entered upon it in any court of competent jurisdiction to the fullest extent permitted under Utah law.

#### 14.8 Allocation of Costs of Resolving Claims.

14.8.1 Each Party shall bear all its own costs incurred prior to and during the proceedings described herein, including the fees of its attorney or other representative.

14.8.2 Each Party shall share equally in the costs of conducting the arbitration proceeding (collectively, "Arbitration Costs"), except as otherwise provided herein; provided, however, if the Claim is rejected in whole or in part, the Claimant shall pay all Arbitration Costs, including the costs incurred by the Respondent.

14.9 **Enforcement of Resolution.** If the Parties agree to resolve any Claim through negotiation in accordance herewith and any Party thereafter fails to abide by the terms of such Agreement, or if the Parties agree to accept the Award following arbitration and any Party thereafter fails to comply with such 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 herein. 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) all costs incurred in enforcing such agreement or Award, including, without limitation, attorneys fees and court costs.

### XV. SECURITY

15. **Security.** The MHOA may, but shall not be obligated to, maintain or support certain activities within the Project designed to make the Project safer than they otherwise might be. Neither the MHOA, nor the Developer shall in any way be considered insurers or guarantors of security within the Project, however, and neither the MHOA, nor the Developer shall be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken. All Owners and his, her or its tenants, Guests and invitees acknowledge that the Developer, the MHOA and its Board of Delegates, and the MHOA or Club Committee do not represent or warrant that any fire protection system or burglar alarm system designated by or installed in the Project may not be compromised or circumvented, that any fire protection or burglar alarm systems will prevent loss by fire, smoke, burglary, theft, hold-up, or otherwise nor that fire protection or burglary alarm systems will in all cases provide the detection or protection for which the system is designed or intended. Each Owner or his, her or its tenant, guest or invitee acknowledges and understands that the Developer, the Board of Delegates and the MHOA or Club Committee are not insurers and that each Owner or his, her or its tenant, guest and invitee assumes all risks for loss or damage to persons or property within the Project and further acknowledges that Developer, the Board of Delegates and the MHOA or Club Committee have made no representations or warranties nor has any Owner or his, her or its tenant, Guest or invitee relied upon any representations or warranties, expressed or implied, including any warranty of merchantability or fitness for any particular purpose, relative to any fire and/or burglar alarm systems recommended or installed or any security measures undertaken within the Project.

## XVI. AMENDMENT

16.1 **General.** Except as provided elsewhere in this Master Declaration, including by way of illustration but not limitation to sections pertaining to the annexation or withdrawal of land, any amendment to this Master Declaration shall require the affirmative written vote or consent of at least sixty-seven percent (67%) of the Total Votes of the MHOA cast either in person or by proxy at a meeting duly called for such purpose or otherwise approved in writing by such Owners without a meeting. Any Amendment authorized pursuant to this Section shall be accomplished through the recordation in the Office of the County Recorder of an instrument executed by the MHOA. In such instrument an officer or delegate of the MHOA shall certify that the vote required by this Section for Amendment has occurred.

16.2 **Initial Developer Right to Amend.** The Developer alone may amend or terminate this Master Declaration prior to the closing of a sale of the first Lot, Unit or Membership.

16.3 **Unilateral Right to Amend Under Certain Conditions.** Notwithstanding anything contained in this Master Declaration to the contrary, this Master Declaration may be amended unilaterally at any time and from time to time by Developer if such Amendment is (i) necessary to correct typographical errors or inadvertent omissions; (ii) necessary to bring any provision hereof into compliance with any applicable governmental statute, rule, or regulation or judicial determination which shall be in conflict therewith; or (iii) reasonably necessary to enable any reputable title insurance company to issue title insurance coverage with respect to the Lots, Units or Memberships subject to this Master Declaration; provided, however, any such Amendment shall not materially adversely affect the title to any Lot, Unit or Membership unless any such Owner shall consent thereto in writing.

16.4 **Developer's Right to Amend Unilaterally Prior to Termination of Developer's Right to Control.** Prior to the expiration of the Period of Developer's Control, Developer may unilaterally amend this Master Declaration for any other purpose; provided, however, any such Amendment shall not materially adversely affect the substantive rights of any Owner or Member hereunder, nor shall it adversely affect title to any property without the consent of the affected Owner or Member.

16.5 **To Satisfy Requirements of Lenders.** Anything to the contrary notwithstanding, Developer reserves the unilateral right to amend all or any part of this Master Declaration to such extent and with such language as may be requested by a State Department of Real Estate (or similar agency), FHA, VA, the FHLMC or FNMA and to further amend to the extent requested by any other federal, state or local governmental agency which requests such an amendment as a condition precedent to such agency's approval of this Master Declaration or approval of the sale of Lots, Units or Memberships, or by any federally chartered lending institution as a condition precedent to lending funds upon the security of any Lot, Unit or Membership, or any portions thereof. Any such amendment shall be effected by the recordation by Developer of an Amendment duly signed by the Developer, specifying the federal, state or local governmental agency or the federally chartered lending institution requesting the

amendment and setting forth the amendatory language requested by such agency or institution. Recordation of such an Amendment shall be deemed conclusive proof of the agency's or institution's request for such an amendment, and such Amendment, when recorded, shall be binding upon all Lots or Units and Memberships and all persons having an interest therein. It is the desire of Developer to retain control of the MHOA and its activities during the anticipated period of planning and development. If any amendment requested pursuant to the provisions of hereof deletes, diminishes or alters such control in any manner whatsoever in the opinion of Developer, Developer shall have the unilateral right to amend this Master Declaration to restore such control.

**16.6 Developer's Rights.** No provision of this Master Declaration reserving or granting to Developer the Developmental Rights shall be amended without the prior express written consent of Developer, which consent may be withheld, conditioned or delayed for any reason or for no reason at Developer's sole and exclusive discretion.

**16.7 Swim and Tennis Club.** No provision of this Master Declaration affecting the Swim and Tennis Club or the Club Committee shall be amended without the unanimous express written consent of both all of the Club Committee Members and the Developer, which consent may be withheld, conditioned or delayed for any reason or for no reason.

## XII. MISCELLANEOUS

**17.1 Covenants to Run with Land.** This Declaration and all of the covenants, provisions, and requirements hereof are intended to be and shall constitute covenants running with the land or equitable servitudes, and shall be binding upon and shall inure to the benefit of the parties to this Declaration and any other party which has, acquires, or comes to have any interest in the property or which occupies or uses the property, including the Swim and Tennis Club, a Lot or Unit, and their respective grantees, transferees, heirs, devisees, personal representatives, successors, and assigns. This Declaration and all of the covenants, provisions, and requirements hereof shall be binding upon each Member and Owner, all Lots, Units and property in the Tract. All real property interests in the Tract shall be subject to this Master Declaration and all of such covenants, provisions, and requirements. Each Owner and occupant, by virtue of accepting a deed or other document of conveyance to, or the possession of any Unit or Lot, or use of the property, hereby consents and agrees to be subject to and bound by this Master Declaration and all of the conditions, covenants, restrictions, easements, provisions and requirements hereof.

**17.2 Partial Invalidity.** The invalidity or unenforceability of any portion of the Declaration shall not affect the validity or enforceability of the remainder hereof, and if any provision of this Declaration or the application thereof to any party to this Declaration, or circumstances should to any extent be invalid, the remainder of this Declaration or the application of such provision to any party to this Declaration, or circumstances other than those as to which a holding of invalidity is reached shall not be effected thereby (unless necessarily conditioned or dependent upon the provisions or circumstances as to which a holding of

invalidity is reached), and each provision of this Declaration shall be valid and enforceable to the fullest extent permitted by law.

**17.3 Effective Dates and Duration.** This Declaration and all of the provisions hereof (except any provisions which by their terms may cease to be effective at an earlier time) shall remain effective for a term of fifty (50) years, unless sooner terminated and extinguished by a written Termination of Declaration filed with the Utah County Recorder, and executed by all of the parties hereto. At the expiration of the initial term, the Declaration shall renew itself for additional ten (10) year periods unless terminated by the unanimous consent of all of the parties hereto.

**17.4 Captions.** The captions or headings which precede the paragraphs of this Declaration are for convenience only and shall in no way affect the manner in which any provision hereof is construed.

**17.5 Construction.** Whenever the context or circumstance so requires, the singular shall include the plural, the plural shall include the singular, the whole shall include any part thereof, and any gender shall include both other genders.

**17.6 Governing Law.** This Declaration shall be governed by and construed in accordance with the laws of the State of Utah.

**17.7 Enforcement and Attorneys Fees.** In the event of a material violation of this document, the Manager, Board of Delegates or an aggrieved Owner may bring an action for injunctive relief or damages. If this agreement is referred to an attorney for interpretation or enforcement, the prevailing party shall be entitled to recover his reasonable attorneys fees and costs, regardless of whether arbitration is commenced or a lawsuit is filed.

**17.8 Registered Agent.** The initial registered agent of the MHOA is Christopher P. Gamvroulas. The initial registered office of the MHOA is at 978 East Woodoak Lane, Salt Lake City, Utah 84117.

**17.9 Professional Manager.** The MHOA, Neighborhood Associations and the Swim and Tennis Club must at all times be managed by a professional manager, who must be selected or approved by the MHOA and, during the Period of Developer's Control, the Developer; provided, however, the Board of Delegates and/or Club Committee may delegate some of their management responsibilities to a professional manager or company, and they may employ general laborers, grounds-crew, maintenance personnel, bookkeeping, administrative and clerical workers as necessary to perform their management responsibilities. In the event of a conflict of opinion, the decision of the Developer shall be conclusive, final and binding.

**17.10 Monetary Obligations to City.** Anything to the contrary notwithstanding, the Master Association is responsible for and shall pay the City directly for ("City Debt"):

17.10.1 The cost of the pressurized irrigation system; and

17.10.2 The cost of the culinary water; and

17.10.3 The sanitary sewer fees for the Common Areas and Facilities.

If the Master Association fails or refuses to pay the City Debt when due, that amount constitutes a lien on the interest of the Master Association and Owners and Members in the Property, and the City shall be entitled to the benefit of the lien rights expressed in Article XI above.



DATED this <sup>Oct.</sup> 30 day of ~~August~~, 2006.

DEVELOPER:  
IVORY DEVELOPMENT, LLC.

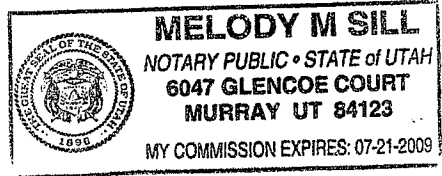
By: Christopher P. Gamvroulas  
Name: Christopher P. Gamvroulas  
Title: Managing Member

**ACKNOWLEDGMENT**

STATE OF UTAH                    )  
  ss:  
COUNTY OF SALT LAKE    )

The foregoing instrument was acknowledged before me this <sup>Oct.</sup> 30 day of ~~August~~, 2006 by Christopher P. Gamvroulas, the Managing Member of IVORY DEVELOPMENT, LLC., a Utah limited liability company, and said Christopher P. Gamvroulas duly acknowledged to me that said IVORY DEVELOPMENT, LLC executed the same.

Melody M. Sill  
NOTARY PUBLIC  
Residing at: Murray UT  
My Commission Expires: 7-21-09



**EXHIBIT "A"**  
**LEGAL DESCRIPTION**

The land described in the foregoing document as the Tract is located in Utah County, Utah and is described more particularly as follows:

**(NORTHEAST PARCELS)**  
**PARCEL 1A-2**

A portion of the NE1/4 of Section 32, Township 4 South, Range 1 East, Salt Lake Base & Meridian, located in Lehi, Utah, more particularly described as follows:

Beginning at a point located N0°04'56"W along the Section line 24.75 feet from the East ¼ Corner of Section 32, T4S, R1E, S.L.B.& M.; thence N89°57'11"W parallel to, and 24.75 feet northerly of the ¼ Section line, 645.75 feet to the southeast corner of that Real Property described in Entry No. 37562:2002 of the Official Records of Utah County; thence N0°04'56"W along said property 1,299.50 feet to the north line of the SE1/4 of the NE1/4 of said Section 32; thence N89°59'56"E along said line 645.75 feet to the East line of said Section 32; thence S0°04'56"E along the Section line 1,300.04 feet to the point of beginning.

Contains: 19.268 acres

**PARCEL 1B**

A portion of the NW1/4 of Section 33, Township 4 South, Range 1 East, Salt Lake Base & Meridian, located in Lehi, Utah, more particularly described as follows:

Beginning at a point located N0°04'56"W along the Section line 24.75 feet and S89°57'36"E 24.75 feet from the West ¼ Corner of Section 33, T4S, R1E, S.L.B.& M.; thence N0°04'56"W parallel to, and 24.75 feet easterly of the Section line, 1,300.04 feet to the north line of the SW1/4 of the NW1/4 of said Section 33; thence S89°57'46"E along said line 1,213.03 feet to the southerly right-of-way of the Provo Reservoir Canal; thence along said right-of-way the following 7 (seven) courses: S41°07'18"E 64.32 feet; thence along the arc of a 105.00 foot radius curve to the left 79.98 feet through a central angle of 43°38'30" (chord: S62°56'33"E 78.06 feet); thence S84°45'48"E 575.18 feet; thence S86°33'18"E 275.27 feet; thence S87°39'48"E 303.78 feet; thence along the arc of a 150.00 foot radius curve to the right 50.33 feet through a central angle of 19°30'30" (chord: S78°03'03"E 50.10 feet); thence S68°26'18"E 53.10 feet; thence S0°56'02"E along the west line of BROOKHAVEN VILLAS PHASE 1, according to the Official Plat thereof on file in the Office of the Utah County Recorder, 1,105.93 feet to a point 24.75 feet northerly of the ¼ Section line; thence N89°57'36"W along said line parallel to, and 24.75 feet northerly of the ¼ Section line, 2,590.48 feet to the point of beginning.

Contains: 73.038 acres

**'SOUTHWEST' PARCEL**

A portion of the SW1/4 and the SE1/4 of Section 32, Township 4 South, Range 1 East, Salt Lake Base & Meridian, located in Lehi, Utah, more particularly described as follows:

Beginning at a point located N89°57'11"W along the ¼ Section line 1,875.96 feet and S0°03'16"E 6.00 feet from the East ¼ Corner of Section 32, T4S, R1E, S.L.B.& M.; thence S0°03'16"E 1,309.56 feet along the west line of lands of Dixon, and the west line of FOXMOOR RIDGE Subdivision, Plat "A", according to the Official Plat thereof on file in the Office of the Utah County Recorder, to the north line of EAGLE POINT ESTATES Subdivision, Plat "A", according to the Official Plat thereof on file in the Office of the Utah County Recorder; thence along said Plat the following: N89°57'48"W 47.42 feet to the northwest corner of said plat; thence S0°03'16"E 1,340.33 feet to the south line of said Section 32; thence S89°52'46"W along the Section line 737.21 feet to the South ¼ Corner of said Section; thence N89°55'06"W along the Section line 272.56 feet; thence N0°03'39"E 441.33 feet; thence N89°56'21"W 325.00 feet; thence S0°03'39"W 441.21 feet to the Section line; thence N89°55'06"W along the Section line 731.60 feet to the Southeast Corner of the SE1/4 of the SW1/4 of said Section 32; thence N0°04'18"E along the 1/16<sup>th</sup> (40 acre) Section line 332.16 feet; thence N89°55'21"W 664.33 feet to the west line of the East ½ of the SW1/4 of the SW1/4 of Section 32; thence N0°06'54"E along said line 996.31 feet to the north line of the SW1/4 of the SW1/4; thence S89°56'08"E along said line 663.57 feet to the Northeast Corner of the SW1/4 of the SW1/4 of Section 32; thence N0°04'18"E along the west line of the NE1/4 of the SW1/4 878.62 feet; thence S89°57'11"E 325.00 feet; thence N0°04'18"E 444.00 feet to the ¼ Section line; thence S89°57'11"E along the ¼ Section line 1,782.95 feet to the point of beginning.

Contains: 135.605 acres

A portion of the above described legal descriptions contains the following subdivisions:

Clubview at Ivory Ridge Plat A, Lots 101-153  
 Clubview Towns at Ivory Ridge Plat A, Units 1-66  
 Ivory Ridge Plat A, Lots 1-5

**EXHIBIT "B"**  
**BYLAWS OF THE**  
**IVORY RIDGE MASTER ASSOCIATION**

**ARTICLE I**  
**NAME AND LOCATION**

**Section 1.01 Name and Location.** The name of the association is the Ivory Ridge Master Association (the "MHOA"). The principal office of the corporation shall be located at 978 East Woodoak Lane, Salt Lake City, UT 84117, but meetings of Members and Delegates may be held at such places within the State of Utah, as may be designated by the Board of Delegates.

**ARTICLE II**  
**DEFINITIONS**

**Section 2.01 Definitions.** Except as otherwise provided herein or as may be required by context, all terms defined in Paragraph 1 of the Declaration shall have such defined meanings when used in these Bylaws.

**ARTICLE III**  
**MEETINGS OF MEMBERS OF THE MASTER ASSOCIATION**

**Section 3.01 Annual Meeting.** The Board of Delegates shall meet as often as it deems reasonably necessary but not less than semi-annually at a convenient time and place.

**Section 3.02 Special Meetings.** Special meetings of the Members of the MHOA may be called at any time by the President or by any Delegate.

**Section 3.03 Notice of Meetings.** Written notice of each meeting of the Members shall be given to each Delegate by or at the direction of the Secretary or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, at least fifteen (15) days before such meeting to said Delegate addressed to the Delegate's address last appearing on the books of the MHOA, or supplied by such Delegate to the MHOA for the purpose of notice. Such notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting.

**Section 3.04 Quorum.** A majority of the Delegates present shall constitute a quorum for any action except as otherwise provided in the Articles, the Declaration, or these Bylaws.

**Section 3.05 Proxies.** At all MHOA meetings, each Member may vote in person or by proxy. All proxies shall be in writing and filed with the secretary. Every proxy shall be revocable and shall expire, if not previously revoked, six months after the date it is given by the Member.

**ARTICLE IV**  
**BOARD OF DELEGATES AND TERM OF OFFICE**

**Section 4.01 Number.** The affairs of the MHOA shall be managed by a Board of Delegates comprised of nine (9) members, initially consisting of one representative, from the SFR Neighborhood, Townhome Neighborhood, Loft Neighborhood and Commercial Neighborhood, and five (5) members appointed by Developer. Each Delegate must be duly qualified, appointed or elected. Unless otherwise determined by the Member, the President of the Member shall be the Delegate.

**Section 4.02 Appointment.** Each of the 4 Neighborhoods must have one Delegate on the Board of Delegates.

**Section 4.03 Replacement.** If a Delegate resigns or is otherwise unable or unwilling to serve, then the remaining Delegates shall appoint a replacement to complete his or her term of office.

**Section 4.04 Term of Office.** Each Delegate on the Board of Delegates shall serve a term of one one (1) year.

**Section 4.05 Compensation.** No Delegate shall receive compensation for any service he may render to the MHOA as a member of the Board of Delegates, although he may be reimbursed for his actual expenses incurred in the performance of his duties and may enter into an independent contract to provide other services.

**Section 4.06 Action Taken Without a Meeting.** The Board of Delegates shall have the right to take any action in the absence of a meeting which it could take at a meeting by obtaining the written approval of all the Delegates. Any action so approved shall have the same effect as though taken at a meeting of the Board of Delegates.

**Section 4.06 Voting.** Each Delegate shall have one vote for each Lot or Unit in the Neighborhood or Neighborhoods he represents.

**Section 4.07 Managing Member.** Anything to the contrary notwithstanding, during the Period of Developer's Control, the Board of Delegates assign and delegate all of its rights, power and authority to a Managing Member selected by the Developer, who shall manage the Common Areas and Facilities, including the Swim and Tennis Club, and all Neighborhoods, and administer the Project Documents. The initial Managing Member of the Association shall be Christopher P. Gamvroulas.

**ARTICLE V  
POWERS AND DUTIES OF THE BOARD OF DELEGATES**

**Section 5.03 Powers.** The MHOA shall have all of the powers of a Utah non-profit corporation, subject only to such limitations upon the exercise of such powers as are expressly set forth in the Articles, the Bylaws and this Declaration. The MHOA shall have the power to perform any and all lawful acts which may be necessary or proper for, or incidental to, the exercise of any of the express powers of the MHOA. Without in any way limiting the generality of the foregoing, the MHOA may act through its Board and shall specifically have the powers and duties set out in this Article V, including

**Section 5.03.1 Assessments.** The power and duty to levy Master Assessments on the Members, and to enforce payment of such assessments in accordance with the provisions of Article VI hereof.

**Section 5.03.2 MHOA Property.** The right to own and/or lease the MHOA Property and the duty to maintain and manage the Ivory Ridge Shared Amenity and all facilities and improvements thereon subject to MHOA control and all other property acquired by the MHOA. In particular the MHOA shall:

5.03.2.1 Maintain and repair in an attractive, safe and functional condition the Ivory Ridge Shared Amenity;

5.03.2.2 Pay all taxes and assessments levied upon the Ivory Ridge Shared Amenity and all taxes and assessments payable by the MHOA;

5.03.2.3 Obtain any water, sewer, gas and electric services needed for the Ivory Ridge Shared Amenity; and

5.03.2.4 Do each and every other thing reasonable and necessary to operate the Ivory Ridge Shared Amenity and the MHOA.

**ARTICLE VI  
OFFICERS AND THEIR DUTIES**

**Section 6.01 Enumeration of Officers.** The officers of the MHOA shall be a president and secretary, plus such other officers as the Board of Delegates may from time to time by resolution create. The same individual may not hold the office of president and secretary at the same time. The officers need not be Delegates.

**Section 6.02 Election of Officers.** The Board of Delegates shall elect or appoint officers at the first meeting of the Board of Delegates during each calendar year.

**Section 6.03 Term.** Each officer of the MHOA shall hold office for one (1) year unless he shall sooner resign, or shall be removed or otherwise disqualified to serve.

**Section 6.04 Special Appointments.** The Board of Delegates may elect such other officers as the affairs of the MHOA may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board of Delegates may from time to time determine.

**Section 6.05 Resignation and Removal.** Any officer may be removed from office with or without cause by a majority vote of the Board of Delegates. Any officer may resign at any time by giving written notice to the Board of Delegates, the president or the secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

**Section 6.06 Vacancies.** A vacancy in any office may be filled by appointment by the Board of Delegates. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

**Section 6.07 President.** The president shall (a) preside at all meetings of the Board of Delegates, (b) see that orders and resolutions of the Board of Delegates are carried out and (c) sign all contracts.

**Section 6.08 Secretary.** The secretary shall (a) record the votes and keep the minutes of all meetings and proceedings of the Board of Delegates and of the MHOA, (b) keep the corporate seal of the MHOA and affix it on all papers requiring said seal, (c) serve notice of meetings of the Board of Delegates and of the MHOA, (d) keep appropriate current record showing the Members of the MHOA together with their addresses and (e) perform such other duties as may be required by the Board of Delegates.

## **ARTICLE VII COMMITTEES**

**Section 7.01 Committees.** The Board of Delegates may appoint such committees as deemed appropriate in carrying out its purpose.

## **ARTICLE VIII BOOKS AND RECORDS**

**Section 8.01 Books and Records.** The books and records shall be kept with detailed accounts of the receipts and expenditures affecting the Property, and the administration of the Project, specifying the maintenance, repair and any other expenses incurred. The books and records, including any invoices, receipts, bills, proposals, documents, financial statements, and vouchers accrediting the entries thereupon shall be available for examination by the Owners, their duly authorized agents or attorneys, during general business hours on working days at the times and in the manner that shall be set and announced by the Committee for the general knowledge of the Owners. All books and records shall be kept in accordance with generally accepted accounting practices.

**Section 8.02 Signatures.** All checks, drafts, contracts, and legally binding agreements must be signed by at least two (2) persons, one of whom must be the president or secretary, and the other the professional property manager.

**Section 8.03 Bookkeeping.** The accounting and financial statements for MHOA must be kept and prepared by either the property manager or an independent bookkeeper or accountant, who may not be a member of the Board of Delegates or an officer of the MHOA. A monthly profit and loss statement, balance sheet, and check register shall be sent or delivered designee by the bookkeeper or accountant to each Delegate and Association or their designee. The accountant or bookkeeper shall prepare and file all tax returns for the MHOA.

**Section 8.04 Audit.** Either a (a) majority vote of the Delegates or (b) majority vote of all of the Owners is necessary and sufficient to require either a Compilation Report, Reviewed Statement or Audited Statement of the MHOA.

## **ARTICLE IX AMENDMENTS**

**Section 9.01 Amendment to Bylaws.** These Bylaws may only be amended as follows: (a) Unilaterally by the Developer during the Period of Developer's Control; and (b) thereafter by the unanimous vote of all of the Members.

**Section 9.02 Conflict Between Articles, Bylaws and Declaration.** In the case of any conflict between the Articles and these Bylaws, the Articles shall in all respects govern and control; and in the case of any conflict between the Declaration and these Bylaws, the Declaration shall in all respects govern and control.

## **ARTICLE X MISCELLANEOUS**

**Section 10.01 Miscellaneous.** The fiscal year of the MHOA shall begin on the first day of January and end on the 31st day of December of every year, except that the first fiscal year shall begin on the date of incorporation.



IN WITNESS WHEREOF, we, being all of the Members of the MHOA have hereunto set our hands this 30 day of August, 2006.

*Oct.*

DEVELOPER:  
IVORY DEVELOPMENT, LLC.

By: *Christopher P. Gamvroulas*  
Name: Christopher P. Gamvroulas  
Title: Managing Member

**ACKNOWLEDGMENT**

STATE OF UTAH                    )  
  ss:  
COUNTY OF SALT LAKE    )

The foregoing instrument was acknowledged before me this 30 day of <sup>*Oct.*</sup> ~~August~~, 2006 by Christopher P. Gamvroulas, the Managing Member of IVORY DEVELOPMENT, LLC., a Utah limited liability company, and said Christopher P. Gamvroulas duly acknowledged to me that said IVORY DEVELOPMENT, LLC. executed the same.

*Melody M. Sill*  
NOTARY PUBLIC  
Residing at: *Murray UT*  
My Commission Expires: *7-21-09*

