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DECLARATION
OF
COVENANTS, CONDITIONS
AND RESTRICTIONS

FOR

TALISMAN

WASATCH COUNTY, Utah

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DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR
TALISMAN

THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS is made this 30th day of May, 2007, by Prime West Jordanelle, LLC, a Utah limited liability company.

TABLE OF CONTENTS

PART ONE: INTRODUCTION TO THE COMMUNITY

ARTICLE I: Concepts and Definitions

ARTICLE II: Creation of the Community

- 1.1 Purpose and Intent
- 1.2 Mission Statement
- 1.3 Binding Effect
- 1.4 Governing Documents

PART TWO: CREATION AND MAINTENANCE OF COMMUNITY STANDARDS

ARTICLE III: Use and Conduct

- 3.1 Restrictions on Use, Occupancy, and Alienation
- 3.2 Framework for Regulation
- 3.3 Owners' Acknowledgment and Notice to Purchasers
- 3.4 Rule Making Authority
- 3.5. Protection of Owners and Others

ARTICLE IV: Architecture and Landscaping

- 4.1 General
- 4.2 Architectural Review
- 4.3 Guidelines and Procedures
- 4.4 No Waiver of Future Approvals
- 4.5 Variances
- 4.6 Limitation of Liability
- 4.7 Certificate of Compliance
- 4.8 Enforcement

ARTICLE V: Maintenance and Repair

- 5.1 Maintenance of Lots
- 5.2 Maintenance of Village Property
- 5.3 Responsibility for Repair and Replacement

PART THREE: COMMUNITY GOVERNANCE AND ADMINISTRATION

ARTICLE VI: The Association and its Members

- 6.1 Function of the Association
- 6.2 Membership
- 6.3 Voting
- 6.4 Villages and Village Representatives
- 6.5 Voting Groups

ARTICLE VII: Association Powers and Responsibilities

- 7.1 Acceptance and Control of Association Property
- 7.2 Maintenance of Common Maintenance Areas
- 7.3 Insurance
- 7.4 Compliance and Enforcement
- 7.5 Implied Rights; Board Authority
- 7.6 Indemnification of Officers, Directors, and Others
- 7.7 Safety and Security
- 7.8 Powers of the Association Relating to Villages
- 7.9 Provision of Services
- 7.10 Relationships with Other Properties
- 7.11 View Impairment
- 7.12 Relationship with Governmental and Tax-Exempt Organizations
- 7.13 Right to Designate Sites for Governmental, Public Interests and Easement Rights
- 7.14 Use of Technology

ARTICLE VIII: Association Finances

- 8.1 Budgeting and Allocating Common Expenses
- 8.2 Budgeting and Allocating Village Expenses
- 8.3 Budgeting for Reserves
- 8.4 Special Assessments
- 8.5 Benefited Assessments
- 8.6 Commencement of Assessment Obligation; Time of Payment
- 8.7 Obligation for Assessments
- 8.8 Lien for Assessments
- 8.9 Exempt Property
- 8.10 Capitalization of Association
- 8.11 Community Enhancement Fee
- 8.12 Use and Consumption Fees

PART FOUR: COMMUNITY DEVELOPMENT

ARTICLE IX: Expansion of the Community

- 9.1 Annexation by Declarant
- 9.2 Annexation by the Association
- 9.3 Additional Covenants and Easements
- 9.4 Resort Area and Private Amenities
- 9.5 Effect of Filing Supplemental Declaration

ARTICLE X: Additional Rights Reserved to Declarant

- 10.1 Withdrawal of Property
- 10.2 Marketing and Sales Activities
- 10.3 Right to Develop
- 10.4 Right to Approve Changes in Talisman Standards
- 10.5 Right to Transfer or Assign Declarant Rights
- 10.6 Exclusive Rights to Use Name of Development
- 10.7 Right to Use Common Area for Special Events
- 10.8 Easement to Inspect and Right to Correct
- 10.9 Right to Notice of Design or Construction Claims
- 10.10 Termination of Rights
- 10.11 Special Natural Gas Arrangements
- 10.12 Special Water Connection Arrangements

PART FIVE: PROPERTY RIGHTS WITHIN THE COMMUNITY

ARTICLE XI: Easements

- 11.1 Easements in Common Area
- 11.2 Easements of Encroachment.
- 11.3 Easements for Utilities, Etc.
- 11.4 Technology Utility Easements
- 11.5 Easements to Serve Additional Property
- 11.6 Easements for Maintenance, Emergency, and Enforcement
- 11.7 Easements for Private Amenities
- 11.8 Easements for Lake and Pond Maintenance and Flood Water
- 11.9 Easements for Cross-Drainage
- 11.10 Rights to Stormwater Runoff, Effluent, and Water Reclamation

ARTICLE XII: Limited Common Areas

- 12.1 Purpose
- 12.2 Designation
- 12.3 Use by Others

ARTICLE XIII: Party Walls and Other Shared Structures

- 13.1 General Rules of Law to Apply
- 13.2 Maintenance; Damage and Destruction

PART SIX: RELATIONSHIPS WITHIN AND OUTSIDE THE COMMUNITY

ARTICLE XIV: Dispute Resolution and Limitation on Litigation

- 14.1 Agreement to Encourage Resolution of Disputes without Litigation
- 14.2 Dispute Resolution Procedures
- 14.3 Initiation of Litigation by Association

ARTICLE XV: Private Amenities

- 15.1 Right to Use the Private Amenities
- 15.2 Conveyance of Private Amenities
- 15.3 Assumption of Risk and Indemnification
- 15.4 View Impairment
- 15.5 Rights of Access and Parking
- 15.6 Architectural Control
- 15.7 Limitations on Amendments
- 15.8 Jurisdiction and Cooperation

ARTICLE XVI: Mortgagee Provisions

- 16.1 Notices of Action
- 16.2 No Priority
- 16.3 Notice to Association
- 16.4 Failure of Mortgagee to Respond

PART SEVEN: CHANGES IN THE COMMUNITY

ARTICLE XVII: Changes in Ownership of Lots

ARTICLE XVIII: Changes in Common Area

- 18.1 Condemnation
- 18.2 Partition
- 18.3 Transfer, Dedication or Preservation of Common Area

ARTICLE XIX: Amendment of Declaration

- 19.1 By Declarant
- 19.2 By Members
- 19.3 Validity and Effective Date
- 19.4 Exhibits

**PART EIGHT: RESPONSIBILITIES TO THE GREATER WASATCH COUNTY
COMMUNITY**

ARTICLE XX: Talisman Responsibilities to the Greater Wasatch County Community

- 20.01 Wasatch County Development Agreement
- 20.02 Specific Owner Financial Responsibilities
- 20.03 Other Owner Duties and Enforcement

EXHIBIT A - LAND INITIALLY SUBMITTED

EXHIBIT B - LAND SUBJECT TO ANNEXATION

EXHIBIT C - INITIAL USE RESTRICTIONS

EXHIBIT D - BYLAWS OF THE TALISMAN HOMEOWNERS ASSOCIATION

EXHIBIT E - TALISMAN DEVELOPMENT AGREEMENT

PART ONE: INTRODUCTION TO THE COMMUNITY

Prime West Jordanelle, LLC, has created this Declaration to provide a governance structure and a flexible system of standards and procedures for the overall development, expansion, administration, maintenance, and preservation of Talisman as a planned community.

ARTICLE I: Concepts and Definitions

The terms used in the Governing Documents are given their natural, commonly accepted definitions unless otherwise specified. Capitalized terms are defined as follows:

Design Guidelines: The Community's architectural, construction, design, landscaping and site planning guidelines and review procedures adopted and amended pursuant to Article IV of this Declaration.

Architectural Review Committee (ARC): The committee established to review plans and specifications for the construction or modification of improvements and to administer and enforce the architectural and design controls described in Article IV of this Declaration.

Articles: The Articles of Incorporation of The Talisman Homeowners Association, Inc., filed with Utah's Division of Corporations and Commercial Code, as they may be amended.

Talismans Club: The owner of golf courses, club houses, other recreational amenities and related land and facilities located within the Community and elsewhere.

Benefited Assessment: Assessments charged against a particular Lot or particular Lots for Association expenses as described in Section 8.6 of this Declaration.

Board of Trustees or Board: The body responsible for the general governance and administration of the Association, selected as provided in the Bylaws.

Builder: Anyone acquiring a Lot or Lots for the purpose of constructing homes for later sale to consumers, or who purchases land within the Community for further subdivision, development, and/or resale in the ordinary course of its business.

Bylaws: The Bylaws of the Association as they may be amended. A copy of the initial Bylaws is attached to this Declaration as Exhibit D.

Class B Control Period: The time period during which the Class B Member may point a majority of the Board members. The Class B Control Period ends when any one of the following occurs:

- (a) When 90% of the Lots are issued certificates of occupancy and are owned by Class A Members other than Builders;
- (b) December 31, 2030; or

(c) When, in its discretion, the Class B Member so determines.

Common Area: All real and personal property, including easements, which the Association owns, leases, or otherwise has a right to possess or use for the common use and enjoyment of the Owners. Common Area includes the Limited Common Area, as defined below. Common Areas exclude all Private Amenities.

Common Expenses: The actual and estimated expenses the Association incurs, or expects to incur, for the general benefit of all Owners. Common Expenses include any reserves the Board finds necessary or appropriate. Common Expenses do not include any expenses incurred during the Class B Control Period for initial development or other original construction costs unless a majority of the Class A Members approve.

Common Maintenance Areas: The Common Area, together with any other area for which the Association has or assumes maintenance or other responsibility.

Community: The real property described in Exhibit "A", together with such additional property as is subjected to this Declaration in accordance with Article IX.

Community Enhancement Fee: Fees levied upon certain real property transfers for the benefit of Talisman and other designated Persons.

Community-Wide Standard: The standard of conduct, maintenance, or other activity generally prevailing throughout the Community, or the minimum standards established pursuant to the Design Guidelines, Use Restrictions, and Board resolutions, whichever is the highest standard. Declarant initially shall establish such standard. The Community-Wide Standard may contain objective elements, such as specific landscape or house maintenance requirements, and subjective elements, such as matters subject to the Board's or the ARC's discretion. The Community-Wide Standard may or may not be in writing. The Community-Wide Standard may evolve as development progresses and as Talisman changes.

Association: The Talisman Homeowners Association, Inc. a Utah nonprofit corporation, its successors or assigns.

Declarant: Prime West Jordanelle, L.L.C., a Utah limited liability company, or any successor or assign who takes title to any portion of the property described in Exhibit "A" for development and/or sale and who is designated as Declarant in a recorded instrument the immediately preceding Declarant executes.

Limited Common Area: A portion of the Common Area primarily benefiting one or more, but less than all, Villages or Owners, as more particularly described in Article XII.

Lot: A portion of the Community, whether improved or unimproved, which may be independently owned and conveyed, and upon which a Residence is intended for development, use, and occupancy. The term shall refer to the land, if any, which is part of the Lot as well as any improvements, including any Residence, on the Lot. The boundaries of each Lot shall be

shown on a Plat; provided, in the case of a building containing multiple Residences for individual sale (e.g., attached condominium or townhouse units), each Residence shall be a separate Lot.

A parcel shall be deemed to be a single Lot until such time as a Plat subdivides all or a portion of the parcel. Thereafter, the subdivided portion shall contain the number of Lots shown on the Plat. Any portion not subdivided shall continue to be a single Lot.

Master Plan: The land use plan for Talisman as approved by Wasatch County, as it may be amended from time to time. It includes all of the property described in Exhibit "A" and all or a portion of the property described in Exhibit "B". Declarant is not obligated to submit property shown on the Master Plan to this Declaration. In addition, Declarant may submit property to this Declaration which is not shown on the Master Plan.

Member: Each Lot Owner, subject to Section 6.2 of this Declaration.

Mortgage: A mortgage, a deed of trust, a deed to secure debt, or any other form of security instrument affecting title to any Lot. The term Mortgagee shall refer to a beneficiary or holder of a Mortgage.

Owner: The record title holder to any Lot, but excluding, in all cases, anyone holding an interest merely as security for the performance of an obligation (e.g., a Mortgagee). If a Lot is sold under a Recorded contract of sale, and the contract specifically so provides, the purchaser (rather than the fee owner) will be considered the Owner.

Person: An individual, a corporation, a partnership, a trustee, or, any other legal entity.

Plat: Any Recorded land survey plat for all or any portion of Talisman.

Private Amenities: Real property and facilities located adjacent to, near, or within the community, which Persons other than the Association own and operate for recreational/resort and related purposes on a membership basis or otherwise and which is designated by Declarant as being a Private Amenity. Private Amenities shall include the golf courses, club houses, other recreational amenities and related land and facilities of the Talisman Club.

Regular Assessment: Annual assessments levied to fund Common Expenses for the general benefit of all Lots, as determined in accordance with Section 8.1.

Residence: Any building, or part of a building, on a Lot which is intended for use and occupancy as a separate residence.

Resort Area: Any area within the Community designated by Declarant in any Supplemental Declaration for hotels, cottages and condominiums available for overnight stay, time-share or interval ownership units, facilities of the Talisman Club and related commercial and incidental uses.

Special Assessment: Assessments charged against all Owners or all Owners in a Village in accordance with Section 8.4.

Supplemental Declaration: A recorded instrument which subjects additional property to this Declaration, designates Villages, identifies Common Area and Limited Common Area, designates Voting Groups, and/or imposes additional restrictions and obligations on the land described.

Use Restrictions: The initial use restrictions, rules, and regulations governing the use of and activities on the Lots and the Common Areas set forth in Exhibit C, as they may be changed in accordance with Article III or otherwise amended.

Village: A group of Lots designated by Declarant as a separate Village in accordance with Section 6.4(a). Lots within a Village may share Limited Common Areas and/or receive benefits or services from the Association which are not provided to all Lots. A Village may include more than one housing type and may include parcels which do not border on each other. If the Association provides benefits or services to less than all Lots within a particular Village, then the Association may levy a Village Assessment against just those Lots for such benefits or services. This Declaration does not require the creation of any Villages.

Village Assessments: Assessments levied against the Lots in a particular Village or Villages to fund Village Expenses, as described in Section 8.2.

Village Organization: Any owners organization having jurisdiction over a Village which is subordinate to the Association's rights under this Declaration. This Declaration does not require the creation of any Village Organization. A Village Organization may only be formed by Declarant or by the Board of Trustees with the consent of Declarant.

Village Expenses: The actual and estimated expenses which the Association incurs or expects to incur for the benefit of Owners within a particular Village, including any reserve for capital repairs and replacements and administrative charges authorized by this Declaration or the Supplemental Declarations applicable to such Village.

Village Representative: The representative of the Class A Members within a Village selected to cast their votes on Association matters (except where Members are required to cast their own votes). The term Village Representative also refers to alternate Village Representatives acting in the Village Representative's absence. No Village Representatives shall exist except as appointed by a Village Organization that has been validly established by Declarant or by the Board of Trustees with the consent of Declarant.

Voting Group: One or more Village Representatives, or a group of Members, who vote on a common slate for electing directors, as described in Section 6.5.

ARTICLE II: Creation of the Community

2.1 Purpose and Intent

Declarant, as the owner of the real property described in Exhibit A (or if not the owner, with the owner's consent), is recording this Declaration of Covenants, Conditions, Restrictions (the Declaration) to establish a general plan of development for Talisman, a planned community. This Declaration provides for the Community's overall development, administration, maintenance, and preservation, and provides a flexible and reasonable procedure for its future expansion. An integral part of the development plan is the creation of The Talisman Homeowners Association, Inc., a Utah nonprofit corporation, comprised of all Talisman property owners, to own, operate, and/or maintain various common areas and community improvements and to administer and enforce this Declaration and the other Governing Documents.

This document does not and is not intended to create a condominium under Utah law.

2.2 Mission Statement

The Association's mission is to preserve, promote and manage Talisman's natural resources to ensure that the community lives in harmony with its surroundings. As environmental steward, the Association will manage the wildlife, open spaces and common areas and develop and maintain the community's parks and trails. It is also charged with administering Talisman's design guidelines and the design review process when delegated by Declarant. The Association will also maintain Talisman's private trail system and operate any Talisman Shuttle System as may be required pursuant to Talisman's Development Agreement. In addition, the Association may perform such other community services and undertake such other responsibilities as its Board may deem advisable from time to time.

2.3 Binding Effect

This Declaration governs the property described in Exhibit "A" and any other property submitted to this Declaration in the future by any supplemental declaration. This Declaration shall run with the title to such property and shall bind anyone having any right, title, or interest in any portion of such property, their heirs, successors, successors-in-title, and assigns.

Declarant, the Association, any Owner, and their respective legal representatives, heirs, successors, and assigns may enforce this Declaration. This Declaration shall be effective for a minimum of 20 years from the date it is recorded. After 20 years, this Declaration shall continue automatically for successive 10 year periods unless a majority of the then Owners sign a document stating that the Declaration is terminated and that document is Recorded within the year before the Declaration expires. In such case, this Declaration shall expire on the date specified in the termination document.

2.4 Governing Documents

The Governing Documents create a general development plan for Talisman. The following constitute the Governing Documents:

- This Declaration, which creates obligations which are binding upon the Association and all present and future owners of property in Talisman.
- Any supplemental declaration that may add property to Talisman and may impose additional obligations or restrictions on such property.
- The Articles of Incorporation of the Association, which establishes the Association as a non-profit corporation under Utah law.
- The Bylaws, which governs the Association's internal affairs, such as voting rights, elections, meetings, officers, etc.
- The Design Guidelines, which establish site planning, thematic and architectural standards and guidelines for improvements and modifications to Lots, including structures, landscaping, and other items on Lots.
- Use Restrictions which govern use of property and activities within the Community.

The Governing Documents may include other documents adopted by the Board of Trustees or the Members of the Association.

If there is a conflict between or among the Governing Documents and any Village Organization's covenants, restrictions, or policies, the Governing Documents will control.

Additional restrictions or provisions which are more restrictive than the provisions of this Declaration may be imposed on any portion of Talisman. The more restrictive provisions will be controlling over the less restrictive provisions in this Declaration. However, no person shall record any additional covenants, conditions, or restrictions affecting any portion of Talisman without Declarant's written consent, so long as Declarant owns any property described in Exhibit "A". Any instrument recorded without the required consent is void and of no force and effect.

The Governing Documents apply to all Owners and any occupants of a Lot. They also apply to tenants, guests, visitors, and invitees.

If any court determines that any provision of this Declaration is invalid, or invalid as applied in a particular instance, such determination shall not affect the validity of other provisions or other applications of the provision.

PART TWO: CREATION AND MAINTENANCE OF COMMUNITY STANDARDS

The standards for use and conduct, maintenance, and architecture at Talisman are what give the Community its identity and make it a place that people want to call home. This Declaration establishes procedures for adopting, modifying, applying, and enforcing such standards while providing the flexibility for Community standards to evolve as the Community changes and grows.

ARTICLE III: Use and Conduct

3.1 Restrictions on Use, Occupancy, and Alienation

The restrictions set forth in this Section may be amended only in accordance with Article XIX.

a) Residential and Related Uses. Subject to Section 3.1(b) of this Declaration, the Community shall be used only for residential, recreational, resort and related purposes. Resort uses include the operation of a hotel and resort condominiums for overnight stay, the operation of golf and other recreational facilities by the Talisman Club and the operation of other commercial uses in reasonable proximity to such resort uses. Related purposes may include offices for the Association or its management agent(s), Declarant's business or sales office(s) (including ongoing real estate resale brokerage operations), and any business use which meets the conditions of Section 3.1(b). In addition, the Association or Declarant may permit any other commercial activity that does not detract from the Community's residential and recreational character.

(b) Business Use. Declarant shall be entitled to designate, develop and operate a convenience commercial use and such other commercial uses as may be approved by Wasatch County in such locations as Declarant may determine. No business shall be conducted in or from any Lot, except that an Owner or a resident of the Lot may conduct business activities within the Residence if the business activity:

- (i) is not apparent or detectable by sight, sound, or smell from outside the Residence;
- (ii) complies with applicable zoning requirements;
- (iii) does not involve regular visitation of the Residence by clients, customers, suppliers, or other business invitees, or door-to-door solicitation within the Community; and
- (iv) is consistent with the residential character of the Community and does not constitute a nuisance, or a hazardous, offensive or illegal use, or threaten the security or safety of others within the Community, as determined in the Board's sole discretion.

Business shall have its ordinary, generally accepted meaning and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves providing goods or services to Persons other than the family of the producer and for which the producer receives a fee, compensation, or other form of consideration, regardless of whether (A)

such activity is engaged in full or part time, (B) such activity is intended to or does generate a profit, or (C) a license is required. This Section does not apply to designated Resort Areas, the activities of the Talisman Club, or to Declarant's activities, or the activities of Persons which Declarant approves, with respect to the development and sale of property or to the provision of services in the Community. Additionally, this Section shall not apply to any Association activity related to operating, maintaining, or advancing the Community's residential character.

Leasing a Residence is not a Business within the meaning of this subsection.

(c) Leasing. For purposes of this Declaration, Leasing is destined as regular, exclusive occupancy of a Residence by any Person other than the Owner, for which the Owner receives any consideration or benefit, including a fee, service, or gratuity. The Residence, if leased, may be leased only in its entirety (e.g., separate rooms within the same Residence may not be separately leased).

There shall be no subleasing of a Residence or assignment of leases except with the Board's prior written approval. All leases shall be in writing, must require that tenants and all occupants of the leased Lot are bound by and obligated to comply with the Governing Documents, and shall have a term of at least three months, except: (a) with the Board's prior written consent, or (b) as Declarant initially authorizes in a Supplemental Declaration for Lots located within certain Villages.

Within ten (10) days of the lease being signed, an Owner shall notify the Board or the Association's managing agent of any lease and provide any additional information the Board may require. The Owner must give the tenant copies of the Governing Documents. The Board may adopt reasonable Use Restrictions and rules regulating leasing and subleasing. The restrictions on lease terms set forth in this paragraph shall not apply to Lots Declarant owns or Lots owned by a Builder where Declarant approves an exception to the foregoing restrictions.

(d) Occupants Bound. Every Owner shall cause anyone occupying or visiting his or her Lot to comply with the Governing Documents and shall be responsible for all violations and losses they cause to the Common Maintenance Areas, notwithstanding the fact that such Persons also are fully liable and may be sanctioned for any violation.

(e) Subdivision of a Lot and Time-Sharing. Except within Resort Areas, Lots may not be subdivided or their boundary lines changed except with the Board's prior written approval; provided, Declarant may subdivide, change the boundary line of, and replat any Lot it owns. In addition, for so long as Declarant owns any portion of the Community, it may convert Lots into Common Area.

Except within Resort Areas, timesharing, fraction-sharing, or similar programs whereby the right to exclusive use of the Lot rotates among members of the program on a fixed or floating time schedule over a period of years is prohibited. The foregoing restriction shall not be applicable to Lots owned by Declarant or the Talisman Club.

The following may affect the resale of your lot:

(f) Right of First Offer. This provision applies to all original purchasers who buy one or more lots directly from the developer. If a purchaser subsequently decides to sell a lot at a price that is less than the original purchase price, the purchaser must first offer to sell the lot back to the developer (and/or the developer's assigns and/or successors) before offering to sell the lot to any other person.

The developer may exercise its right to repurchase the Property at any time within five (5) business days of receipt of notice of the offer by sending written notice of its intent to repurchase the Property to the original purchaser. In the event that the developer elects to exercise its right to repurchase the Property, the developer shall repurchase the Property for the amount offered by the original purchasers and shall close the sale within thirty (30) days of notifying the original purchaser of its intent to repurchase the Property.

In the event that the developer decides not to repurchase the Property, the developer shall notify the original purchaser in writing, within five (5) business days of receipt of notice of the offer, at which time the original purchaser shall be entitled to sell the Property to a third party at the same price as originally disclosed to the developer. The developer's failure to exercise its right of first offer in any one instance shall not constitute a waiver or release of such rights as to future sales or offers to buy the Property from the original purchaser.

Any purchaser of real property burdened by these CC&Rs purchases subject to this right of first offer by the developer, and this right can only be waived in a writing signed by the developer.

3.2 Framework for Regulation

As part of the general plan of development, the Governing Documents establish a framework of covenants, easements, and restrictions which govern the Community. This includes the Use Restrictions set forth in Exhibit "C". Within that framework, the Board and the Members must have the ability to respond to unforeseen problems and changes affecting the Community. This Article establishes procedures for modifying and expanding the initial Use Restrictions to respond to such changes.

This Article is not intended to apply to reasonable rules and regulations relating to use and operation of the Common Area, which the Board may adopt by resolution, or other administrative rules, unless the Board chooses, in its discretion, to submit to such procedures.

3.3 Owners' Acknowledgment and Notice to Purchasers

All Owners are given notice that use of their Lots and the Common Area is limited by the Use Restrictions as amended, expanded, and otherwise modified from time to time. Each Owner, by accepting a deed, acknowledges and agrees that the use, enjoyment, and marketability of his or her Lot can be affected by the Use Restrictions and Board rules, which may change from time to time. All Lot purchasers are on notice that the Association may have adopted changes to the Use

Restrictions and that such changes may not be set forth in a Recorded document. Copies of the current Use Restrictions and Board rules may be obtained from the Association.

3.4 Rule Making Authority

(a) Subject to the terms of this Article and the Board's duty to exercise business judgment and reasonableness on behalf of the Association and the Members, the Board may change (i.e., modify, cancel, limit, create exceptions to, or expand) the Use Restrictions. The Board shall send notice to all Owners of any proposed change at least five (5) business days before the Board meeting to consider the change. Any Owner or Village Representatives shall have a reasonable opportunity to be heard at such Board meeting.

The proposed change shall be approved unless disapproved by Owners or Village Representatives together representing a majority of the Association's Class A votes, and by the Class B Member, if any. The Board is not obligated to call a meeting of the Owners and Village Representatives to consider disapproval unless it receives a petition which meets the Bylaw's requirements for special meetings. If the Board receives such a petition before the change's effective date, the change shall not become effective until after a meeting is held, and then subject to the outcome of the meeting.

(b) Alternatively, the Owners and any Village Representatives together, representing a majority of the Class A votes in the Association, at an Association meeting duly called for such purpose, may vote to change the Use Restrictions then in effect. Any such change shall require approval of the Class B Member, if any.

(c) Before any Use Restriction change becomes effective, the Board shall send a copy of the new or changed Use Restriction to each Owner. The change does not become effective until thirty (30) days following distribution to Owners. The Association shall provide to any requesting Member or Mortgagee, without cost, a copy of the Use Restrictions then in effect.

(d) No action taken under this Article shall have the effect of modifying, repealing, or expanding the Design Guidelines or any provision of this Declaration other than the initial Use Restrictions. In the event of a conflict between the Design Guidelines and the Use Restrictions, the Design Guidelines shall control.

3.5. Protection of Owners and Others

Except as may be set forth in this Declaration (either initially or by amendment) or in the initial Use Restrictions set forth in Exhibit "C", the Association's actions with respect to Use Restrictions and rules must comply with the following:

(a) Similar Treatment. Similarly situated Owners must be treated similarly; however, the Use Restrictions and rules may vary by neighborhood or Village.

(b) Displays. Subject to Design Guideline restrictions on construction and exterior lighting,

Owners' rights to display religious and holiday signs, symbols, and decorations on their Lots of the kinds normally displayed in single-family residential neighborhoods or Villages shall not be abridged, except that the Association may adopt time, place, and manner restrictions with respect to such displays.

The Association shall not regulate the content of political signs; however, it may regulate the time, place, and manner of posting such signs (including design criteria). All other signs, posters, circulars, and billboards, including "For Sale" and "For Rent" signs, are prohibited except those required by law or those which meet the standards set forth in the Design Guidelines.

(c) Household Composition. The Association shall not interfere with any Owner's freedom to determine the composition of his/her household, except that it may limit the total number of Persons entitled to permanently occupy a Residence based upon the fair use of the Common Area and impacts on all Community services.

(d) Activities within Dwellings. The Association shall not interfere with activities carried on within a Residence, except it may prohibit activities not normally associated with residential property, and it may restrict or prohibit activities that create monetary costs for the Association or other Owners, that are illegal, that create a danger to anyone's health or safety, that generate excessive noise or traffic, that create unsightly conditions visible outside the Residence, or that are an unreasonable source of annoyance.

(e) Allocation of Burdens and Benefits. The Association shall not reallocate financial burdens among the various Lots or change Common Area use rights to the detriment of any Owner over that Owner's written objection. This does not prevent the Association from changing the Common Area available, from adopting generally applicable rules for using the Common Area, or from denying use privileges to anyone who is late in paying assessments, who abuses the Common Area, or who violates the Governing Documents. This provision does not affect the right to levy Village Assessments or to increase the amount of assessments as provided in Article VIII.

(f) Alienation. Except as provided in Section 3.1(c) above, the Association shall not prohibit leasing or transfer of any Lot, or require the Association's or the Board's consent prior to leasing or transferring a Lot. The Association may require that Owners use lease forms approved by the Association (or include specific lease terms) and may impose a reasonable review or administrative fee on the lease or transfer of any Lot. Section 3.1(c) imposes a minimum lease term. Section 8.11 imposes a Community Enhancement Fee of up to 1.0% of sales price to help fund Association operations.

(g) Abridging Existing Rights. The Association may not require an Owner to dispose of personal property that was in or on a Lot in compliance with previous rules. This exemption shall apply only during the period of such Owner's ownership of the Lot and shall not apply to subsequent Owners who take title to the Lot after adoption of the rule.

(h) Reasonable Rights to Develop. The Association may not unreasonably impede Declarant's right to develop Talisman.

(i) Interference with Private Amenities. The Association may not interfere with the use or operation of any Private Amenity, any approved commercial activity or any use within a Resort Area designated by Declarant.

The limitations in subsections (a) through (g) of this Section shall only limit rule-making authority exercised under Section 3.3; they shall not apply to amendments to this Declaration adopted in accordance with Article XIX.

ARTICLE IV: Architecture and Landscaping

4.1 General

No structure or thing shall be placed, erected, or installed upon any Lot, and no improvements or other work (including staking, clearing, excavation, grading and other site work, exterior alterations, or planting or removal of landscaping) shall take place upon any Lot within Talisman, except in compliance with this Article and the Design Guidelines.

No design review approval shall be required to repaint the exterior of a structure in accordance with its most recently approved color scheme or to rebuild in accordance with previously approved plans and specifications. Any Owner may remodel, paint, or redecorate the interior of structures (including the Residence) on his or her Lot without design review approval. However, modifications to the interior of screened porches, patios, and any other portions of a Lot visible from outside a structure are subject to design review approval. Although design review is not required under the limited circumstances set forth above, each Owner will still have the responsibility to comply with any applicable Board rules and any applicable laws.

Each Residence shall be designed by and built in accordance with the plans and specifications of a licensed architect unless Declarant, in its sole discretion, or its designee otherwise approves.

This Article shall apply to any parcels reserved for the fire stations and schools. The design philosophy is Rocky Mountain ranch with western flair. That same design philosophy shall apply to these parcels. Designs on these parcels need to be especially sensitive to:

Building Massing – Incorporate smaller masses as much as possible and practicable.

Roof Forms – Utilize sloping roofs as much as possible and practicable.

Vehicular traffic and parking lot layout – Buffer parking and vehicular traffic with the buildings, landscaping, walls and berming.

Lighting – Exterior lighting shall be designed to minimize nuisance to home sites within Talisman consistent with Talisman's low level lighting requirements.

Streetscape along Talisman's entrance road – Should enhance Talisman's entrance and be consistent with Talisman's emphasis on native vegetation.

Signage – The signage system shall be consistent with Talisman's signage system.

Mechanical Equipment – Buffer from Talisman homesite view and sound.

This Article does not apply to Declarant's activities nor to the Association's activities during the Class B Control Period.

4.2 Architectural Review

(a) By Declarant. Declarant shall have exclusive authority to administer and enforce architectural controls and to review and act upon all applications for architectural and other improvements within the Community. Declarant's rights under this Article IV shall continue for as long as Declarant owns any portion of the Community or has a unilateral right to annex property, unless Declarant earlier terminates its rights in a recorded instrument. Declarant may designate one or more Persons to act on its behalf in reviewing applications. In reviewing and acting upon any request for approval, Declarant or its designee acts solely in Declarant's interest and owes no duty to any other Person.

Declarant may from time to time delegate or assign all or any portion of its rights under this Article to the Association's Architectural Review Committee. Any such delegation shall be in writing, specifying the delegated responsibilities, and shall be subject to (i) Declarant's right to revoke such delegation at any time and reassume its prior jurisdiction, and (ii) Declarant's right to veto any decision which it determines, in its discretion, to be inappropriate or inadvisable for any reason. So long as Declarant has any rights under this Article, the jurisdiction of other entities shall be limited to such matters as Declarant specifically delegates.

(b) Architectural Review Committee. Upon Declarant's delegation or upon expiration or termination of Declarant's rights under this Article, the ARC shall assume jurisdiction over architectural matters. When appointed, the ARC shall consist of at least three (3), but not more than seven (7), persons who shall serve and may be removed and replaced at the Board's discretion. Members of the ARC need not be Members of the Association or representatives of Members, and may, but need not, include architects, engineers or similar professionals, who may be compensated in such manner and amount, if any, as the Board may establish.

As long as Declarant owns any portion of the Community or has the unilateral right to annex property, the ARC shall notify Declarant of any action to be taken under this Article. During such time, Declarant shall have the right, in its sole and absolute discretion, to veto any action the ARC takes; provided, Declarant's right to veto must be exercised within ten (10) days after it receives notice of the ARC's action. The party submitting the plans for approval shall not be notified of the ARC's approval or disapproval until after Declarant's right to veto has been exercised or has expired.

The Board may create and appoint subcommittees of the ARC. Subcommittees may be established to preside over particular areas of review (e.g., landscape plans) and shall be governed by procedures the Board or the ARC may establish. Any subcommittee's actions are subject to review and approval by Declarant, for as long as Declarant may review the ARC's decisions, and the ARC. Notwithstanding the above, neither the ARC nor Declarant shall be obligated to review all actions of any subcommittee, and the failure to take action in any instance shall not be a waiver of the right to act in the future. Unless and until such time as Declarant delegates all or a portion of its reserved rights to the ARC or Declarant's rights under this Article terminate, the Association shall have no jurisdiction over architectural matters.

(c) Reviewer. For purposes of this Article, the Reviewer is the entity having jurisdiction in a particular case. Declarant and the Association may employ architects, engineers, or other Persons to perform the review.

In reviewing applications and other materials, the Reviewer may consider any factors it deems relevant, including, without limitation, harmony of the proposed exterior design with surrounding structures and environment. Decisions may be based on purely aesthetic considerations. Each Owner acknowledges that aesthetic determinations are purely subjective and that opinions may vary as to the desirability and/or attractiveness of particular improvements. The Reviewer shall have the sole discretion to make final, conclusive, and binding determinations on matters of aesthetic judgment and such determinations are not subject to review so long as they are made in good faith and in accordance with the required procedures.

(d) Fees; Assistance. The Reviewer may establish and charge reasonable fees for its review of applications and may require that such fees be paid in advance. Such fees may include the reasonable costs incurred in having any application reviewed by architects, engineers, or other professionals. The Board may include the compensation of such Persons in the Association's annual operating budget.

4.3 Guidelines and Procedures

(a) Design Guidelines. Declarant may prepare the initial Design Guidelines, which may contain general provisions applicable to all of Talisman as well as specific provisions that may vary from one part of the Community to other parts. The Design Guidelines are intended solely to provide guidance to Owners and Builders. The Design Guidelines are not the exclusive basis for the Reviewer's decisions, and compliance with the Design Guidelines does not guarantee approval of any application.

Declarant shall have sole and full authority to amend the Design Guidelines as long as it owns any portion of the Community or has a unilateral right to annex property to the Community. Declarant's right to amend the Design Guidelines shall continue even if reviewing authority is delegated to the ARC, unless Declarant also delegates the power to amend the Design Guidelines to the ARC. Upon termination or delegation of Declarant's right to amend, the ARC may amend the Design Guidelines at its sole discretion.

Amendments to the Design Guidelines shall be prospective only. They shall not require modifications to or removal of structures previously approved once the approved construction or modification has commenced. Subject to the Community-Wide Standard, the scope of amendments to the Design Guidelines is unlimited, and such amendments may remove requirements previously imposed or otherwise make the Design Guidelines less restrictive.

The Reviewer shall make the Design Guidelines available to Owners and Builders who seek to engage in development or construction within Talisman. In Declarant's discretion, the Design Guidelines may be recorded, in which event the recorded version, as it may unilaterally be amended from time to time, shall control in the event of any dispute as to which version of the Design Guidelines was in effect at any particular time.

(b) Procedures. Any design review procedures set forth in the Design Guidelines shall govern the application and review process. Unless the Design Guidelines provide otherwise, no construction activities or other activities described in Section 4.2(a) may begin until a request is submitted to and approved by the Reviewer. The request must be in writing and accompanied by plans and specifications and other information the Reviewer or the Design Guidelines require.

The Reviewer shall make a determination on each application after receipt of a completed application and other information it requires. The Reviewer may permit or require that an application be submitted or considered in stages, in which case, a final decision shall not be required until after the final, required submission stage. The Reviewer may (i) approve the application, with or without conditions; (ii) approve a portion of the application and disapprove other portions; or (iii) disapprove the application.

Reviewer approval is not a substitute for any approvals or reviews required by Wasatch County or any other municipality or governmental agency or entity having jurisdiction over architectural or construction matters.

The Reviewer shall notify the applicant in writing of the final determination on any application within forty-five (45) days after its receipt of a completed application and all required information. If the Reviewer fails to respond in a timely manner, approval shall be deemed given, subject to Declarant's right to veto pursuant to Section 4.2(a). However, no approval, whether expressly granted or deemed granted, shall be inconsistent with the Design Guidelines unless a written variance has been granted pursuant to Section 4.5.

Notice shall be deemed given at the time the envelope containing the response is deposited in U.S. mail. Personal or electronic delivery of such written notice also shall be sufficient and shall be deemed given at the time of confirmed delivery to the applicant. As part of any approval, the Reviewer may require that construction in accordance with approved plans commence within a specified time period. If construction does not commence within the required period, approval shall be deemed withdrawn and the Owner must reapply for approval before commencing any activities. Once commenced, construction must be diligently pursued to completion. All construction work shall be completed within one (1) year of commencement unless otherwise specified in the notice of approval or the Design Guidelines, or unless the Reviewer, in its discretion, grants an extension in writing. If approved work is not completed within the required

time, it shall be considered nonconforming and shall be subject to enforcement action by the Association, Declarant, or any aggrieved Owner. The Reviewer may exempt certain activities from the application and approval requirements of this Article, provided such activities are undertaken in strict compliance with the requirements of such resolution. For example, Builders may submit and receive pre-approval of landscaping or other plans for general application. Such pre-approved plans shall not require resubmission prior to use on a particular Lot.

4.4 No Waiver of Future Approvals

Each Owner acknowledges that the people reviewing applications under this Article will change from time to time and that opinions on aesthetic matters, as well as interpretation and application of the Design Guidelines, may vary accordingly. In addition, each Owner acknowledges that it may not always be possible to identify objectionable features until work is completed, at which time, it may be unreasonable to require that such objectionable features be changed. However, the Reviewer may refuse to approve similar proposals in the future. Approval of applications or plans shall not constitute a waiver of the right to withhold approval of similar applications, plans, or other matters subsequently or additionally submitted for approval.

4.5 Variances

The Reviewer may authorize variances from compliance with the Design Guidelines and any procedures when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations require, but only in accordance with duly adopted rules and regulations. No variance shall (a) be effective unless in writing; (b) be contrary to this Declaration; or (c) prevent the Reviewer from denying a variance in other circumstances. A variance requires Declarant's written consent for so long as Declarant owns any portion of the Community or has the unilateral right to annex property.

4.6 Limitation of Liability

The standards and procedures established by this Article are a mechanism for maintaining and enhancing the overall aesthetics of Talisman; they do not create any duty to any Person. The Reviewer shall not bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications, or ensuring compliance with building codes and other governmental requirements, or for ensuring that every residence is of comparable quality, value, or size, of similar design, or aesthetically pleasing or otherwise acceptable to other Owners.

Declarant, the Association, its officers, the Board, the ARC, any committee, or any member of any of the foregoing (the Released Parties) shall not be held liable for soil conditions, drainage, or other general site work; any defects in plans revised or approved hereunder; any loss or damage arising out of the action, inaction, integrity, financial condition, or quality of work of any contractor or its subcontractors, employees, or agents, whether or not Declarant has approved or featured such contractor as a Builder in the Community; or any injury, damages, or loss arising out of the manner or quality or other circumstances of approved construction or modifications to any Lot. In all matters, the Association shall defend and indemnify any Released Party as provided in Section 7.6 and the Bylaws.

4.7 Certificate of Compliance

Any Owner may request in writing that the Reviewer or the Association issue a certificate of architectural compliance certifying that there are no known violations of this Article or the Design Guidelines or specifying any violations that the Reviewer or the Association knows to exist. The Reviewer or the Association shall either grant or deny such written request within thirty (30) days after receipt and may charge a reasonable administrative fee. Issuance of such a certificate shall estop the Association from taking enforcement action against an Owner for any condition known to the Reviewer or the Association on the date of the certificate.

4.8 Enforcement

Any construction, alteration, or other work done in violation of this Article or the Design Guidelines is subject to enforcement action. Upon written request from the Association or Declarant, Owners shall, at their own cost and expense and within a reasonable time frame identified in the request, cure the violation or restore the Lot and/or Residence to substantially the same condition as existed before the violation occurred. Should an Owner fail to cure the problem or otherwise restore the property as required, the Association, Declarant, or their designees shall have the right to enter the property, remove the violation, and restore the property. All costs, together with the interest at the rate the Board establishes (not to exceed the maximum rate then allowed by Utah law), may be assessed against the benefited Lot and collected as a Benefited Assessment.

Any approvals granted under this Article are conditioned upon completion of all elements of the approved work, unless approval to modify any application has been obtained. In the event that any Person fails to commence and diligently pursue to completion all approved work by the deadline imposed, Declarant or the Association may enter upon the Lot and remove or complete any incomplete work and assess all costs incurred against the Lot and its Owner as a Benefited Assessment, which shall be due ten (10) days after it is assessed.

All acts by any contractor, subcontractor, agent, employee, or invitee of an Owner shall be deemed as an act done by or on behalf of such Owner. Any contractor, subcontractor, agent, employee, or other invitee of an Owner who fails to comply with the terms and provisions of this Article and the Design Guidelines may be excluded from the Community. In such event, neither Declarant nor the Association, or their officers and directors, or any other person associated with the Community shall be held liable to any Person for exercising the rights granted by this paragraph.

The Association shall be primarily responsible for enforcing this Article. If, however, in Declarant's discretion, the Association fails to take appropriate enforcement action within a reasonable time period, Declarant, for so long as it owns any portion of the Community or has the unilateral right to annex property thereto, may, but shall not be obligated to, exercise the enforcement rights set forth above. In addition to the foregoing, the Association and Declarant shall have the authority and standing to pursue all legal and equitable remedies available to enforce the provisions of this Article and the Reviewer's decisions. If the Association or

Declarant prevails, they shall be entitled to recover all costs including, without limitation, attorney fees and court costs, reasonably incurred in such action.

ARTICLE V: Maintenance and Repair

5.1 Maintenance of Lots

Each Owner shall maintain his or her Lot, including the Residence and all landscaping and other improvements comprising the Lot, in a manner consistent with the Governing Documents, the Community-Wide Standard, and any other applicable covenants, unless such maintenance responsibility is otherwise assumed by or assigned to the Association or a Village Organization under any Supplemental Declaration or additional covenants applicable to such Lot.

5.2 Maintenance of Village Property

Upon Board resolution, Owners within any Village created in accordance with this Declaration shall be responsible for paying, through Village Assessments, the costs of operating, maintaining, and insuring certain portions of the Common Maintenance Areas within or adjacent to such Village. This may include, without limitation, the costs of maintaining any signage, entry features, right-of-way, and green space between the Village and adjacent public roads, private streets within the Village, and lakes or ponds within the Village, regardless of ownership and regardless of the fact that the Association may perform such maintenance. In any event, all Villages which are similarly situated shall be treated the same.

The Association may assume maintenance responsibility for property within any Village, in addition to that designated by any Supplemental Declaration, either by agreement with the Village Organization or because, in the opinion of the Board, the level and quality of service then being provided is not consistent with the Community-Wide Standard. All costs of maintenance pursuant to this paragraph shall be assessed as a Village Assessment only against the Lots within the Village to which the services are provided. The provision of services in accordance with this Section shall not constitute discrimination within a class.

Any Village Organization shall maintain its common property and any other property for which it has maintenance responsibility in a manner consistent with the Governing Documents, the Community-Wide Standard, and all applicable covenants.

5.3 Responsibility for Repair and Replacement

Unless otherwise specifically provided in the Governing Documents or in other instruments creating and assigning maintenance responsibility, responsibility for maintenance includes responsibility for repair and replacement as necessary to maintain the property to a level consistent with the Community-Wide Standard.

Each Owner shall carry property insurance for the full replacement cost of all insurable improvements on his or her Lot, less a reasonable deductible, unless either his or her Village Organization, if any, or the Association carries such insurance (which they may, but are not

obligated to do). If the Association or any Village Organization assumes responsibility for insuring a Lot, the insurance premiums shall be levied as a Benefited Assessment against the benefited Lot and the Owner.

In the event of damage to or destruction of a structure on a Lot, the Owner shall promptly repair or reconstruct the structure in a manner consistent with the original construction or other plans and specifications approved in accordance with Article IV. Alternatively, the Owner shall clear the Lot and maintain it in a neat and attractive condition consistent with the Community-Wide Standard. The Owner shall pay any costs insurance proceeds do not cover.

This Section applies to any Village Organization responsible for common property within the Village in the same manner as if the Village Organization was an Owner and the common property was a Lot. Additional Recorded covenants applicable to any Village may establish requirements for insurance and more stringent standards for rebuilding or reconstructing structures on the Lots within the Village and for clearing and maintaining the Lots in the event the structures are not rebuilt or reconstructed.

PART THREE: COMMUNITY GOVERNANCE AND ADMINISTRATION

This Declaration establishes the Association as a mechanism by which each Owner is able to participate in the governance and administration of Talisman. While many powers and responsibilities are vested in the Association's Board of Trustees in order to facilitate day-to-day management and operation, some decisions are considered of such importance that they are reserved for the Association's membership -- the Lot Owners.

ARTICLE VI: The Association and its Members

6.1 Function of the Association

The Association is the entity responsible for management, maintenance, operation, and control of the Common Maintenance Areas. The Association will also maintain Talisman's private trail system and operate the Talisman Shuttle System as may be required pursuant to any Talisman's Development Agreement. In addition, the Association may perform such other community services and undertake such other responsibilities as its Board may deem advisable from time to time. The Association also has primary responsibility for enforcing the Governing Documents. The Association shall perform its functions in accordance with the Governing Documents and Utah law.

6.2 Membership

Every Owner is a Member of the Association. There shall be only one membership per Lot. If a Lot is owned by more than one Person, all co-Owners shall share the privileges of the membership, subject to reasonable Board regulation and the voting restrictions described in Section 6.3(c) and in the Bylaws. Co-Owners are jointly and severally obligated to perform the

responsibilities of an Owner. The membership rights of an Owner which is not an individual may be exercised by any officer, director, partner, or trustee, or by an individual the Owner designates from time to time in a written instrument provided to the Association's Secretary.

6.3 Voting

The Association shall have two classes of membership, Class A and Class B.

(a) Class A. Class A Members are all Owners except the Class B Member, if any. Class A Members have one equal vote for each Lot they own, except that there shall be only one vote per Lot. No vote shall be exercised for any property which is exempt from assessment under Section 8.9.

(b) Class B. The sole Class B Member shall be Declarant. The Class B Member shall have two (2) votes for each Lot in which it holds the interest required for ownership in the Association and may exercise the additional rights specified throughout the Governing Documents.

The Class B membership shall terminate upon the earlier of:

- (i) two years after expiration of the Class B Control Period; or
- (ii) when, in its discretion, Declarant declares in a recorded instrument.

Upon termination of the Class B membership, Declarant shall be a Class A Member entitled to one Class A vote for each Lot it owns.

(c) Exercise of Voting Rights. Except as otherwise specified in this Declaration or the Bylaws, for each Village designated by Declarant in a Supplemental Declaration, the Village Representative shall exercise the vote for each Lot a Class A Member owns within the Village, as provided in Section 6.4(b). Village Representatives may cast their votes as they, in their discretion, deem appropriate. For each Lot that is not located within a designated Village, the Owner shall be entitled personally to exercise the vote for his or her Lot. In any situation where a Member is entitled personally to exercise the vote for his or her Lot, and there is more than one Owner of such Lot, the vote for such Lot shall be exercised as the co-Owners determine among themselves and advise the Secretary of the Association in writing prior to the vote being taken. Absent such advice, the Lot's vote shall be suspended if more than one Person seeks to exercise it.

6.4 Villages and Village Representatives

(a) Villages. Declarant may designate one or more Villages within the Community. This Declaration does not require the establishing of any Villages. Lots within a particular Village may be subject to covenants in addition to those contained in this Declaration and, if required by law or if Declarant otherwise approves, the Owners within the Village may be members of a Village Organization, if one is established by the Declaration or a Supplemental Declaration, in addition to the Association.

Additional property may be initially assigned to a specific Village (by name or other identifying designation), which Village may be then existing or newly created. So long as it has the right to subject additional property to this Declaration pursuant to Section 9.1, Declarant may unilaterally amend this Declaration or any Supplemental Declaration to create Villages or redesignate Village boundaries. However, two or more existing Villages shall not be combined without the consent of Owners of a majority of the Lots in the affected Villages. After Declarant no longer has the right to annex additional property, Villages may be established by the Board with the consent of Declarant. Owners within any Village or Owners within a specified portion of the Community not included within a Village may request that the Association provide a higher level of service than the Association generally provides to all Villages or may request that the Association provide special services for the benefit of Lots in such Village or specified portion of the Community. The Board shall have complete discretion whether or not to grant any such request; provided, however, that if the Board agrees to any such request, the Board shall assess the cost of such services, which may include a reasonable administrative charge in such amount as the Board deems appropriate (provided, any such administrative charge shall apply at the same rate per Lot to all Lots receiving the same service), against the Lots within such Village or specified portion of the Community as a Village Assessment or a Benefited Assessment. Upon the affirmative vote, written consent, or a combination thereof, of Owners of a majority of the Lots within the Village or all of the Lots within any other specified portion of the Community, the Association may agree to provide the requested services if approved by the Board.

(b) Village Representatives. Owners within each Village established by Declarant shall elect a Village Representative who shall, except as otherwise provided in this Declaration or the Bylaws, cast the Class B Member votes attributable to Lots within the Village on all matters requiring a membership vote. In addition, each such Village shall elect an alternate Village Representative who shall act in the absence of the Village Representative. The Village Representative and alternate Village Representative shall each be Owners in good standing of a Lot in the Village they represent.

The first election of a Village Representative from each Village shall occur within one year after the sale of the first Lot in the Village to an Owner other than a Builder. Thereafter, the Board shall call for an election of Village Representatives every two years. Votes may be cast by written ballots through the mail, by computer (e.g., electronic mail or intranet system, if any), or at a meeting of the Class A Members within the Village, as the Board determines. If the Class A Members holding at least 10% of the votes attributable to Lots within any Village sign a written petition and present it to the Board, the Village Representative election shall be held at a meeting. Candidates for election as Village Representatives may be nominated by the Board, a nominating committee the Board appoints, or from the floor during an election meeting.

The presence, in person or by proxy, or the filing of ballots by Class A Members representing at least 25% of the total Class A votes attributable to Lots in the Village shall constitute a quorum at any Village meeting or election. In the event of a failure to obtain a quorum or if there is a vacancy in such positions for any Village, the Board may appoint a Village Representative or alternate Village Representative to represent the Village until a successor is elected.

For any Village election, each Class A Member shall have one equal vote for each Lot he or she owns in the Village. The candidate who receives the greatest number of votes shall be elected as the Village Representative and the candidate receiving the next greatest number of votes shall be elected as the alternate Village Representative. The Village Representative and the alternate Village Representative shall serve until their successors are elected. Village Representatives may serve no more than two (2) consecutive terms.

Any Village Representative may be removed, with or without cause, upon the vote or written petition of Owners of a majority of the Lots owned by Class A Members in the Village which the Village Representative represents.

6.5 Voting Groups

Prior to the expiration of the Class B Control Period, Declarant may combine different Villages or other specified groups of Lots into Voting Groups for the purpose of electing directors to the Board. Voting groups shall be designated to promote representation on the Board by groups with dissimilar interests and to avoid particular groups dominating the Board due to the number of votes held by such groups. Declarant shall establish Voting Groups, if at all, by Recording a Supplemental Declaration identifying the Voting Group by legal description or other means by which the Lots within the Voting Group can clearly be determined. Declarant may amend such designations at any time during the Class B Control Period. In any event, each Voting Group shall elect an equal number of directors to the Board.

After expiration of Declarant's right to expand Talisman pursuant to Article IX, the Board, with the approval of Village Representatives representing a majority of any established Villages and Owners and Village Representatives that together represent a majority of the total Class A votes in the Association, may create one or more Voting Groups, or change existing Voting Groups, by Recording a Supplemental Declaration or amending a previous Supplemental Declaration.

Neither Recording nor amending a Supplemental Declaration to create or change Voting Groups shall be an amendment to this Declaration, and no consent or approval of any Person shall be required except as stated in this paragraph. Until such time as Voting Groups are established, the Community shall be a single Voting Group. After Voting Groups are established, any portion of Talisman not assigned to a specific Voting Group shall constitute a single Voting Group.

ARTICLE VII: Association Powers and Responsibilities

7.1 Acceptance and Control of Association Property

(a) The Association may acquire, hold, mortgage or pledge as security, lease (as landlord or tenant), operate, and dispose of tangible and intangible personal property and real property. The Association may enter into leases, licenses, or operating agreements, for payment or no payment, as the Board deems appropriate, permitting use of portions of the Common Area by Community organizations and by other third parties for the general benefit or convenience of Owners and other Talisman residents.

(b) Declarant and its designees may transfer to the Association, and the Association shall accept, personal property and fee title or other property interests in any improved or unimproved real property described in Exhibits A or B. Upon Declarant's written request, the Association shall transfer back to Declarant any unimproved real property originally conveyed to the Association for no payment, to the extent conveyed by Declarant in error or needed by Declarant to make minor adjustments in property lines.

(c) The Association is responsible for management, operation, and control of the Common Area, subject to any covenants, easements, or restrictions set forth in the deed or other instrument transferring the property to the Association. The Board may adopt such reasonable rules regulating use of the Common Area as it deems appropriate. Further, the Board may lease, or borrow funds to acquire, operate or maintain equipment and facilities used in Common Areas or the performance of the Association's other duties under this Declaration or other agreements. Such equipment and facilities may be leased, or such funds may be borrowed from any source, including Declarant, on commercially reasonable terms and conditions.

7.2. Maintenance of Common Maintenance Areas

The Association shall maintain the Common Maintenance Areas in accordance with the Community-Wide Standard. The Common Maintenance Areas shall include, but not limited to:

(a) all portions of the Common Area, including the entrance gates and other entrance features, perimeter fences, all private roads, any and all landscaping, structures, and other improvements on the Common Areas;

(b) all landscaping, and other flora, sidewalks, streetlights, and signage within public rights-of-way within or abutting Talisman, any landscaping and other flora within any public utility easement within Talisman, and any landscaping and other flora abutting any area adjacent to the Community;

(c) such portions of any additional property as may be dictated by Declarant, this Declaration, any Supplemental Declaration, any Plat, or any contract, covenant, or agreement for maintenance entered into by, or for the benefit of, the Association; and

(d) all ponds, streams, and/or wetlands located within Talisman which serve as part of the Community's storm water drainage system, including associated improvements and equipment.

All sanitary sewer facilities shall be owned by the Jordanelle Special Services District ("JSSD"); however, maintenance costs of certain low pressure lines and pump stations and certain back of lot sewer lines and sewer injection pumps shall be reimbursed to JSSD by the Association as provided in Talisman's Annexation Agreement or service agreements with JSSD.

The Association may maintain other property which it does not own, including property dedicated to the public, conservation areas and wetlands dedicated to governmental agencies, and any and all trails and paths located on such parcel if the Board determines that such maintenance is necessary or desirable to maintain the Community-Wide Standard.

The Association shall not be liable for any damage or injury occurring on or arising out of the condition of property which it does not own except to the extent that it has been negligent in the performance of its maintenance responsibilities.

The Association shall maintain the facilities and equipment within the Common Maintenance Areas in continuous operation, except for any periods necessary, as determined by the Board, to perform required maintenance or repairs, unless Owners of Lots and Village Representatives representing 75% of the Class A votes in the Association agree in writing to discontinue such operation. Notwithstanding the above, the Common Maintenance Areas may not be reduced, nor shall operation of its facilities and equipment be discontinued, without Declarant's prior written approval as long as Declarant owns any property described in Exhibits A or B to this Declaration.

The costs associated with maintenance, repair, and replacement of the Common Maintenance Areas shall be a Common Expense. However, the Association may seek reimbursement from the owners of, or other Persons responsible for, certain portions of the Common Maintenance Areas pursuant to this Declaration, a Supplemental Declaration, or other recorded covenants or agreements. The maintenance, repair, and replacement of Limited Common Areas shall be a Village Expense assessed against the Lots within the benefited Village(s) or shall be an expense assessed against benefited Lots as a Benefited Assessment where identified Limited Common Areas are outside of a Village.

7.3 Insurance

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

(i) Blanket property insurance covering risks of direct physical loss on a special form basis (or comparable coverage by whatever name denominated) for all insurable improvements on the Common Area and within other portions of the Common Maintenance Areas to the extent that the Association has assumed responsibility in the event of a casualty, regardless of ownership. If such coverage is not generally available at reasonable cost, then broad form coverage may be substituted. All Association property insurance policies shall have policy limits sufficient to cover the full replacement cost of the insured improvements under current building ordinances and codes;

(ii) Commercial general liability insurance on the Common Maintenance Areas, insuring the Association and its Members for damage or injury caused by the negligence of the Association or any of its Members, employees, agents, or contractors while acting on its behalf. If generally available at reasonable cost, such coverage (including primary and any umbrella coverage) shall have a limit of at least \$2,000,000.00 per occurrence and in the aggregate with respect to bodily injury, personal injury, and property damage;

(iii) Workers compensation insurance and employers liability insurance, if and to the extent required by law;

(iv) Directors and officers liability coverage;

(v) Commercial crime insurance, including fidelity insurance covering all Persons responsible for handling Association funds in an amount determined in the Board's business judgment, but not less than an amount equal to one-quarter of the annual Regular Assessments on all Lots plus reserves on hand. Fidelity insurance policies shall contain a waiver of all defenses based upon the exclusion of Persons serving without compensation; and

(vi) Automobile and such other coverages as the Board may deem necessary.

In the exercise of its business judgment, the Board may obtain additional insurance coverage and higher limits.

Premiums for Common Maintenance Area insurance shall be a Common Expense, except that (i) premiums for property insurance on Lots within a Village shall be a Village Expense; (ii) premiums for insurance on Limited Common Areas within a Village may be a Village Expense unless the Board reasonably determines that other treatment of the premiums is more appropriate; and (iii) premiums for insurance on Limited Common Areas outside of a Village may be allocated to benefited Lots as a Benefited Assessment unless the Board reasonably determines that other treatment of the premises is more appropriate or the allocation of the expense is not material or cannot reasonably be accomplished.

(b) Policy Requirements. The Association shall arrange for an annual review of the sufficiency of its insurance coverage by one or more qualified Persons, at least one of whom must be familiar with insurable replacement costs in the Wasatch County, Utah area. All Association policies shall provide for a certificate of insurance to be furnished to the Association and, upon request, to each Member insured.

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

All insurance coverage obtained by the Board shall:

(i) be written with a company authorized to do business in Utah which satisfies the requirements of the Federal National Mortgage Corporation, or such other secondary mortgage market agencies or federal agencies as the Board deems appropriate;

(ii) be written in the name of the Association as trustee for the benefited parties. Policies on the Common Areas shall be for the benefit of the Association and its Members. Policies secured on behalf of a Village shall be for the benefit of the Owners within the Village and their Mortgagees, as their interests may appear;

(iii) not be brought into contribution with insurance purchased by individual Owners, their Mortgagees, or any occupants of a Lot;

(iv) contain an inflation guard endorsement;

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

(vi) provide that each Owner is an insured person under the policy with respect to liability arising out of such Owner's interest in the Common Area as a Member in the Association (provided, this provision shall not be construed as giving an Owner any interest in the Common Area other than that of a Member);

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

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

In addition, the Board shall use reasonable efforts to secure insurance policies which list the Owners (as a class) as additional insures and provide:

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

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

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

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

(v) a cross liability provision; and

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

(c) Restoring Damaged Improvements. In the event of damage to or destruction of Common Area or other property which the Association is obligated to insure, the Board or its duly authorized agent shall file and adjust all insurance claims and obtain reliable and detailed estimates of the cost of repairing or restoring the property to substantially the condition in which it existed prior to the damage, allowing for changes or improvements necessitated by changes in applicable building codes.

Damaged improvements on the Common Area shall be repaired or reconstructed unless the Owners and any Village Representatives together representing at least seventy-five (75%) of the total Class A votes in the Association and the Class B Member, if any, decide within sixty (60) days after the loss not to repair or reconstruct. If the damage is to Limited Common Area, repairs shall be made unless at least seventy five (75%) of the Owners to which such Limited Common Area is assigned vote not to repair or reconstruct and the Class B Member, if any, consents. If either the insurance proceeds or estimates of the loss, or both, are not available to the Association within such sixty (60) day period, then the period shall be extended for up to sixty (60) additional days until such funds or information are available. No Mortgagees shall have the right to participate in the determination of whether the damage or destruction to the Common Area shall be repaired or reconstructed. If a decision is made not to restore the damaged improvements, and no alternative improvements are authorized, the affected property shall be cleared of all debris and ruins and thereafter shall be maintained by the Association in a neat and attractive condition consistent with the Community-Wide Standard.

The Association shall return any insurance proceeds remaining after paying the costs of repair or reconstruction, or after an agreed-upon settlement, for the benefit of the Members or the Owners of Lots to which a damaged Limited Common Area is assigned as appropriate, and placed in a capital improvements account. This is a covenant for the benefit of Mortgagees and may be enforced by the Mortgagee of any affected Lot. If insurance proceeds are insufficient to cover the costs of repair or reconstruction, the Board may, without a vote of the Members, levy Special Assessments to cover the shortfall against those Owners responsible for the applicable insurance coverage premiums.

7.4 Compliance and Enforcement

(a) The Board may impose sanctions for Governing Document violations, which sanctions include those listed below and any others described elsewhere in the Governing Documents. The Board may establish a range of penalties for different violations, with violations of the Declaration, unsafe conduct, and harassment or intentionally malicious conduct treated more severely than other violations. The following sanctions require prior notice and an opportunity for a hearing in accordance with the Bylaws:

(i) imposing reasonable monetary fines, not to exceed \$1,000.00 per violation (or per day in the case of a continuing violation) or \$10,000.00 in the aggregate, which shall constitute a lien upon the violator's Lot (fines may be imposed within a graduated range);

(ii) suspending an Owner's right to vote (except that suspension may be automatic if the Owner is more than ninety (90) days delinquent in paying any assessment or other charge owed to the Association);

(iii) suspending any Person's right to use Common Area amenities; provided nothing shall authorize the Board to prevent access to a Lot;

(iv) suspending any services provided by the Association (except, that suspension may be automatic if the Owner is more than thirty (30) days delinquent in paying any assessment or other charge owed to the Association);

(v) exercising self-help or taking action to abate any violation of the Governing Documents occurring on a Lot in a non-emergency situation (including removing personal property that violates the Governing Documents); and

(vi) levying Benefited Assessments to cover costs incurred by the Association to bring a Lot into compliance with the Governing Documents.

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

(i) exercising self-help or taking action to abate a violation on a Lot in an emergency situation (including towing vehicles that are in violation of parking rules and regulations);

(ii) exercising self-help or taking action to abate a violation on the Common Area under any circumstances; or

(iii) bringing suit at law for monetary damages or in equity to stop or prevent any violation, or both.

In addition to any other enforcement rights, if an Owner fails properly to perform his or her maintenance responsibility or otherwise fails to comply with any provision of this Declaration, the Association may record a notice of violation or perform the required maintenance or other obligation or otherwise take steps to abate the violation and assess its costs against the Lot and the Owner as a Benefited Assessment. If the Lot in violation is located within a Village, with a Village Organization, that Village Organization shall have the obligation to correct the violation and to enforce rights against the Owner in question. If a Village Organization fails to perform its maintenance responsibilities, the Association may perform the maintenance and assess the costs as a Benefited Assessment against all Lots within the Village. Except in an emergency situation, the Association shall provide the Owner and any Village Organization reasonable notice and an opportunity to cure the problem prior to taking such enforcement action.

All sanctions and remedies set forth in the Governing Documents shall be cumulative of any remedies available at law or in equity. If the Association prevails in any action to enforce the Governing Documents it shall be entitled to recover all costs incurred in the action, including, without limitation, court fees and reasonable attorney fees.

(b) The decision to pursue enforcement action in any particular case shall be left to the Board's discretion, except that the Board shall not be arbitrary or capricious in taking enforcement action. Without limiting the generality of the foregoing sentences, the Board may determine that under the circumstances of a particular case:

- (i) the Association's position is not strong enough to justify taking any further action;
- (ii) the covenant, restriction, or rule being enforced is, or is likely to be construed as, inconsistent with applicable law;
- (iii) although a technical violation may exist or may have occurred, it is not of such a material nature as to be objectionable to a reasonable person or to justify expending the Association's resources; or
- (iv) that it is not in the Association's best interests, based upon hardship, expense, or other reasonable criteria, to pursue enforcement action.

A decision not to enforce a particular provision shall not prevent the Association from enforcing the same provision at a later time or prevent the enforcement of any other covenant, restriction, or rule.

By contract or other agreement, the Association may enforce applicable city and county ordinances, and Wasatch County may enforce its ordinances within Talisman. Specifically, the Association is obligated to comply and to enforce owner compliance with certain obligations contained in the Development Agreement with Wasatch County. The provisions of Section 7.4 shall be applicable to any violations of the Development Agreement.

7.5 Implied Rights; Board Authority

The Association may exercise any right or privilege given to it expressly or by reasonable implication by the Governing Documents, and may take action reasonably necessary to effectuate any such right or privilege. Except as otherwise specifically provided in the Governing Documents or by law, all of the Association's rights and powers may be exercised by the Board without a vote of the membership. The Board may institute, defend, settle, or intervene on the Association's behalf in mediation, binding or non-binding arbitration, litigation, or administrative proceedings in matters pertaining to the Common Maintenance Areas, enforcement of the Governing Documents, or any other civil claim or action. However, the Governing Documents shall not be construed as creating any independent legal duty to institute litigation on behalf of or in the name of the Association or the Members.

In exercising the Association's rights and powers, making decisions on the Association's behalf, and conducting the Association's affairs, Board members are subject to, and their actions shall be judged in accordance with, the standards set forth in the Bylaws.

7.6 Indemnification of Officers, Directors, and Others

The officers, trustees, and committee members, acting in such capacity, shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made or action taken in good faith on the Association's behalf (except to the extent that such officers or directors may also be Members of the Association).

Subject to the Bylaws and as otherwise may be required under Utah law, the Association shall indemnify every officer, trustee, and committee member against all damages and expenses, including counsel fees, reasonably incurred in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Trustees) to which he or she may be a party by reason of being or having been an officer, trustee, or committee member, except that such obligation to indemnify shall be limited to those actions for which liability is limited under this Section or the Bylaws.

This right to indemnification shall not be exclusive of any other rights to which any present or former officer, trustee, or committee member may be entitled. The Association shall, as a Common Expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

7.7 Safety and Security

Owners and occupants of Lots, and their respective guests and invitees, are responsible for their own personal safety and the security of their property in Talisman. The Association may, but is not obligated to, maintain or support certain activities within the Community which are designed to enhance the level of safety or security which each person provides for himself and his property. However, the Association and Declarant shall not in any way be considered insurers or guarantors of safety or security within the Community, nor shall they be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken.

No representation or warranty is made that any systems or measures, including any mechanism or system for limiting access to the Community, cannot be compromised or circumvented, nor that any such systems or security measures undertaken will in all cases prevent loss or provide the detection or protection for which the system is designed or intended. Each Owner acknowledges, understands, and shall be responsible for informing its tenants and all occupants of its Lot that the Association, its Board and committees, and Declarant are not insurers or guarantors of security or safety and that each Person within Talisman assumes all risks of personal injury and loss or damage to property, including Lots and the contents of Lots, resulting from acts of third parties.

7.8 Powers of the Association Relating to Villages

A Village Committee is a committee of the Association, and the Board shall have all of the power and control over Village Committees that it has over other Association committees. The Association shall have the power to require that specific action be taken by a Village Organization in connection with its obligations and responsibilities, such as requiring that specific maintenance or repairs or aesthetic changes be made and requiring that a proposed budget include certain items and that expenditures be made therefore. A Village Organization shall take such action within the reasonable time frame set by the Association. If the Village Organization fails to comply, the Association may take such action on behalf of the Village Organization and levy Benefited Assessments to cover the costs, as well as an administrative charge and sanctions.

7.9 Provision of Services

The Association may provide, or provide for, services and facilities for all or any of the Members and their Lots, and may enter into and terminate contracts or agreements with other entities, including Declarant, to provide such services and facilities. The Board may charge use or service fees for any such services and facilities, or may include the costs in the Association's budget as a Common Expense and assess it as part of the Regular Assessments if provided to all Lots. By way of example, such services and facilities might include landscape maintenance, pest control service, cable television service, internet access, security, caretaker, transportation, fire protection, utilities, trash collection and recycling, and similar services and facilities.

Nothing in this Section shall be construed as a representation by Declarant or the Association as to what, if any, services shall be provided. In addition, the Board may modify or cancel existing contracts for services in its discretion, unless the services are otherwise required by the Governing Documents. Non-use of services provided to all Owners or Lots as a Common Expense shall not exempt any Owner from the obligation to pay assessments for such services.

7.10 Relationships with Other Properties

The Association may enter into contractual agreements or covenants to share costs with any neighboring properties or Private Amenity to contribute funds for, among other things, shared or mutually beneficial property or services and/or a higher level of Common Area maintenance.

7.11 View Impairment

Neither Declarant nor the Association guarantee or represent that any view over and across the Lots or any open space within the Community will be preserved without impairment by structures or landscaping and neither shall be obligated to relocate, prune, or thin trees or other landscaping except to maintain the Community-Wide Standard or as otherwise required under a separate covenant or agreement. The Association (with respect to the Common Area) and Private Amenity owners (with respect to Private Amenity property or property within Resort Areas) have the right to construct improvements and add trees and other landscaping from time

to time subject to applicable law. Any express or implied easements for view purposes or for the passage of light and air are hereby expressly disclaimed.

7.12 Relationship with Governmental and Tax-Exempt Organizations

The Association may enter into agreements or contracts with, or grant exclusive and/or non-exclusive easements over the Common Area to, state or local governments, public utility providers, and non-profit, tax-exempt organizations for the benefit of the Community, the Association, and the Members. The Association may contribute money, real property (including Common Area), personal property, or services to any such entity. Any such contribution shall be a Common Expense and included as a line item in the Association's annual budget.

For the purposes of this Section, a tax-exempt organization shall mean an entity which is exempt from federal income taxes under the Internal Revenue Code (the "Code"), such as, but not limited to, entities which are exempt from federal income taxes under Sections 501(c)(3) or 501(c)(4), as the Code may be amended from time to time.

7.13 Right to Designate Sites for Governmental, Public Interests and Easement Rights

For so long as Declarant owns any property described in Exhibits A or B Declarant may designate sites within the Community for government, education, or religious activities and interests, including without limitation, fire, police, health care and for utility facilities, schools and educational facilities, houses of worship, parks, and other public facilities. Declarant may also retain for use by Declarant or, as approved solely by Declarant, for use by others, non-exclusive private easement rights for underground utilities, whether or not intended to serve the Community. The sites may include Common Area, in which case the Association shall take whatever action is required to permit such use, including dedication or conveyance of the site, if so directed by Declarant.

7.14 Use of Technology

The Association may, as a Common Expense, provide for or offer services which make use of computers and other technological opportunities. For example, to the extent Utah law permits, and unless otherwise specifically prohibited in the Governing Documents, the Association may send required notices by electronic means; hold Board or Association meetings and permit attendance and voting by electronic means; send and collect assessment and other invoices over the computer; sponsor a Community cable television channel; create and maintain a Community intranet or Internet home page offering interactive participation opportunities for users, and maintain an online newsletter or bulletin board.

A computer information system (the "Talisman Net") may be established to provide Owners, residents, tenants, occupants, and invitees, (the "Talisman Net Users") with access to advanced information technology in order to encourage interaction between and among the the Talisman Net Users to stimulate participation in Community life, disseminate information about activities and programs and foster a sense of community. Declarant shall have the exclusive right to establish the Talisman Net. If the Talisman Net is established, Declarant shall have the sole

authority to select providers of services and components. Declarant is authorized to enter into use and cost sharing agreements with individuals outside the Community permitting access to the Talisman Net.

Notwithstanding the amendment provisions set forth in Article XIX , so long as Declarant owns any portion of the Community or has the unilateral right to annex property to this Declaration, Declarant shall have the right to amend this Declaration to implement the the Talismans Net. Such amendments may include, without limitation, establishing that funding of the the Talisman Net and the fees to be paid will be mandatory, establishing who may access the the Talisman Net, and establishing and limiting the number of connections entitled by each Talisman Net User.

ARTICLE VIII: Association Finances

8.1 Budgeting and Allocating Common Expenses

The Association is authorized to levy Regular Assessments equally against all Lots subject to assessment under Section 8.7 to fund the Common Expenses; provided, however, that the assessments on Lots owned by Declarant shall be governed by Section 8.8. At least sixty (60) days before the beginning of each fiscal year, the Board shall prepare a budget of the estimated Common Expenses for the coming year, including any contributions to be made to a reserve fund pursuant to Section 8.3. The budget shall reflect the sources and estimated amounts of funds to cover such expenses, including any prior years' surplus, any non-assessment income, and anticipated assessment income.

In determining the Regular Assessment, the Board may consider any assessment income expected to be generated from any property reasonably anticipated to become subject to assessment during the fiscal year.

Declarant may, but shall not be obligated to, reduce the Regular Assessment for any fiscal year by payment of a subsidy (in addition to any amounts paid by Declarant under Section 8.7(b)) which may be either a contribution, an advance against future assessments due from Declarant, or a loan, in Declarant's discretion. Any such subsidy shall be disclosed as a line item in the income portion of the budget. The payment of such subsidy in any year shall not obligate Declarant to continue paying a subsidy in future years, unless otherwise provided in a written agreement between the Association and Declarant.

The Board shall send a copy of the final budget and notice of the amount of the Regular Assessment to each Owner at least thirty (30) days before the fiscal year begins. The budget shall automatically become effective unless disapproved at a meeting of Owners and Village Representatives representing at least seventy-five (75%) of the total Class A votes in the Association and by the Class B Member, if such exists. There shall be no obligation to call a meeting for the purpose of considering the budget except on the filing with the Board of a petition sufficient to require the calling of a special meeting as provided in the Bylaws. Any

such petition must be presented to the Board within ten (10) days after delivery of the budget and notice of any assessment.

If any proposed budget is disapproved or the Board fails for any reason to determine the budget for any year, then the budget most recently in effect shall continue in effect until a new budget is determined.

The Board may revise the budget and adjust the Regular Assessment from time to time during the year, subject to the notice requirements and the right of the Members to disapprove the revised budget as set forth above.

8.2 Budgeting and Allocating Village Expenses

The Association is authorized to levy Village Assessments equally against all Lots subject to assessment in a Village to fund Village Expenses; provided, if specified in a Supplemental Declaration or if a majority of the Owners within the Village requests in writing, any portion of the assessment intended for the exterior maintenance of structures, insurance on structures, or replacement reserves pertaining to particular structures shall be levied on each of the benefited Lots in proportion to the benefit received. At least sixty (60) days before the beginning of each fiscal year, the Board shall prepare the Association's annual budget, including therein any separate Village budgets covering the estimated Village Expenses, if any, for each Village during the coming year. Each such budget shall include any costs for additional services or a higher level of services approved pursuant to Section 6.4(a) and any contribution to be made to a reserve fund pursuant to Section 8.3. The budget shall also reflect the sources and estimated amounts of funds to cover such expenses, including any prior years' surplus, any anticipated non-assessment income, and assessment income anticipated from the Lots in any Village.

The Board shall send a copy of the Association's annual budget and any Village budget and notice of the amount of the Association assessment and any Village Assessment for the coming year to each Owner at least thirty (30) days before the fiscal year begins. The Village budget shall become effective automatically unless disapproved at a special meeting as provided in Section 8.1.

If the Board fails for any reason to determine the budget for any year, then until such time as a budget is determined, the budget in effect for the year before shall continue for the current year. The Board may revise the budget for the Association or any Village and the amount of the Association assessment or any Village Assessment from time to time during the year, subject to the notice requirements for affected Lot Owners and the right of the affected Lot Owners to disapprove the revised budget as set forth above.

All amounts the Association collects as Village Assessments shall be held in trust for and expended solely for the benefit of the Village for which they were collected. Such amounts shall be accounted for separately from the Association's general funds.

8.3 Budgeting for Reserves

The Board shall prepare and review periodically a reserve budget for the Common Maintenance Areas and for any Village for which the Association maintains capital items as a Village Expense. Reserve budgets shall take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost. The Board shall include in the Common Expense budget or the Village Expense budgets, as appropriate, a capital contribution to fund reserves in an amount sufficient to meet the projected need with respect both to amount and timing by annual contributions over the budget period. So long as the Board exercises business judgment in determining the amount of the reserve fund, the amount shall be considered adequate.

The Board may adopt resolutions regarding the expenditure of any reserve funds, including policies designating the nature of assets for which reserve funds may be expended. These policies may differ for general Association purposes and for each Village. So long as Declarant owns any property described in Exhibits A or B, neither the Association nor the Board shall adopt, modify, limit, or expand such policies without Declarant's prior written consent.

The Board may enter into agreements with Declarant, on negotiated terms, under which Declarant may obligate itself to provide reserve funds as needed on a cash basis in lieu of the Association funding reserves on an accrual basis. Further, the Board may enter into lease or financing arrangements with Declarant to cover initial capital equipment and facilities requirements and ongoing capital requirements not met by funded reserves. The initial capital equipment to be acquired by the Association and that may be financed by Declarant includes equipment for road maintenance, snow removal and Common Area maintenance, transit vehicles, and furniture, fixtures, vehicles and equipment necessary for the operation of the Association and other similar items.

8.4 Special Assessments

In addition to other authorized assessments, the Association may levy Special Assessments to cover unbudgeted expenses or expenses in excess of those budgeted. Special Assessments may be levied against the entire membership, if the Special Assessment is for Common Expenses, or against the Lots within any Village, if the Special Assessment is for Village Expenses. Except as otherwise specifically provided in this Declaration, any Special Assessment shall require the affirmative vote or written consent of Members or Village Representatives (if a Common Expense) or Members (if a Village Expense) representing at least a majority of the total votes allocated to Lots which will be subject to the Special Assessment, and the affirmative vote or written consent of the Class B Member, if any. Special Assessments shall be payable in such manner and at such times as determined by the Board, and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved.

8.5 Benefited Assessments

The Association may levy Benefited Assessments against a particular Lot as follows:

(a) to cover the costs, including overhead and administrative costs, of providing services to Lots upon request of an Owner pursuant to any menu of special services which the Association may offer (which might include the items identified in Section 7.9). Benefited Assessments for special services may be levied in advance of the provision of the requested service;

(b) to cover costs incurred in bringing the Lot into compliance with the Governing Documents, or costs incurred as a consequence of the conduct of the Owner or occupants of the Lot, their agents, contractors, employees, licensees, invitees, or guests; provided, the Board shall give the Lot Owner prior written notice and an opportunity for a hearing, in accordance with the Bylaws, before levying any Benefited Assessment under this subsection; and to cover costs, including overhead and administrative costs, of maintaining Limited Common Areas identified and particular benefit to a Lot or group of Lots.

The Association may also levy a Benefited Assessment against the Lots within any Village to reimburse the Association for costs incurred in bringing the Village into compliance with the provisions of the governing documents, provided the Board gives prior written notice to the Owners of Lots in the Village and an opportunity for such Owners to be heard before levying the assessment.

8.6 Commencement of Assessment Obligation; Time of Payment

The obligation to pay assessments commences as to each Lot on the first day of the month following:

(a) the month in which the Lot is made subject to this Declaration, or (b) the month in which the Board first determines a budget and levies assessments pursuant to this Article, whichever is later. The first annual Regular Assessment and Village Assessment, if any, levied on each Lot shall be adjusted according to the number of months remaining in the fiscal year at the time assessments commence on the Lot.

Owners shall pay assessments in the manner and on the dates the Board establishes. The Board may require advance payment of assessments at closing of the transfer of title to a Lot and may impose special requirements for Owners with a history of delinquent payment. Unless the Board otherwise provides, the Regular Assessment and any Village Assessment shall be due and payable in advance on the first day of each fiscal year. If any Owner is delinquent in paying any assessments or other charges levied on his Lot, the Board may require that the outstanding balance on all assessments be paid in full immediately.

8.7 Obligation for Assessments

(a) Personal Obligation. Each Owner, by accepting a deed or entering into a Recorded contract of sale for any Lot, covenants and agrees to pay all assessments authorized in the Governing

Documents. All assessments, together with interest (computed from the assessment's due date at a rate of 18% per annum or such higher rate as the Board may establish, subject to Utah law), late charges as determined by Board resolution, costs, and reasonable attorney fees, shall be the personal obligation of each Owner and a lien upon each Lot until paid in full. Upon a transfer of title to a Lot, the grantee shall be jointly and severally liable for any assessments and other charges due at the time of conveyance.

The Design Guidelines may provide a procedure and standards for joining two adjacent lots into a single homesite, upon approval of the ARC and the Board upon such approval, and provided the Owner of the two lots executes and records a covenant, acceptable to the Board, perpetually joining such lots into a single homesite, the Board may, in its sole discretion on a case-by-case basis, and in the interest of increasing open space within the community, determine that thenceforth, such combined lots shall be considered as a single lot for purposes of assessments.

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

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

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

(b) Declarant's Limited Assessment Obligation. During the Class B Control Period and so long as there is a budget deficit calculated as provided in this subparagraph, Declarant may elect either to pay assessments on fully-improved Lots which it owns at a rate established by Declarant from time to time that is not less than thirty three and one-third percent (33 1/3%) of the rate of the assessment applicable to a fully improved Lot owned by another Owner, or by funding the budget deficit for the year in question. For purposes of this paragraph, the budget deficit is the difference between the amount of assessments levied on Class A Member-owned Lots and the amount of the Association's actual expenditures during the fiscal year, including debt service and reserve contributions. Unless Declarant otherwise notifies the Board in writing at least sixty (60) days before the beginning of a fiscal year, Declarant shall continue paying on the same basis as during the previous fiscal year if there continues to be a budget deficit during the subsequent year. During the Class B Control Period, Declarant shall not be required to pay

assessments on fully-improved Lots which it owns or to fund the activities of the Association if there is no budget deficit.

Regardless of Declarant's election, Declarant's assessment obligations may be satisfied in the form of cash or by in kind contributions of services or materials, or by a combination of these. After termination of the Class B Control Period, Declarant shall pay assessments on its unsold Lots at thirty three and one-third percent (33 1/3%) of the rate of the assessment applicable to fully improved Lots owned by other Class A Members.

8.8 Lien for Assessments

The Association shall have a lien against each Lot, including Declarant's Lots, to secure payment of delinquent assessments by the Owner of such Lot, as well as interest, late charges (subject to Utah law), and costs of collection (including attorney fees). Such lien shall be superior to all other liens, except (a) the liens of all taxes, bonds, assessments, and other levies which by law would be superior, and (b) the lien or charge of any recorded first Mortgage made in good faith and for value. The Association's lien, when assessments become delinquent, may be enforced by suit, judgment, and judicial or non-judicial foreclosure.

At a foreclosure sale, the Association may bid for the Lot and acquire, hold, lease, mortgage, and convey the Lot. The Association may sue for unpaid assessments and other charges without foreclosing or waiving its assessment lien.

Sale or transfer of any Lot shall not affect the assessment lien or relieve such Lot from the lien for any subsequent assessments. The purchaser of a foreclosed Lot shall not be personally liable for assessments on such Lot due prior to the foreclosure sale. Such unpaid assessments shall be a Common Expense collectible from Owners of all Lots subject to assessment under Section 8.5, including such purchaser, its successors and assigns.

Notwithstanding the above, while the Association owns a Lot: (a) no right to vote shall be exercised on its behalf; (b) no assessment shall be levied on it; and (c) each other Lot shall be charged, in addition to its usual assessment, its pro rata share of the assessment that would have been charged such Lot had it not been acquired by the Association.

8.9 Exempt Property

The following property shall be exempt from payment of Regular Assessments, Village Assessments, and Special Assessments:

All Common Area and other portions of the Community which are not Lots;

Any property dedicated to and accepted by any governmental authority or public utility; and property owned by any Village Organization for the common use and enjoyment of its members, or owned by the members of a Village Organization as tenants-in-common.

In addition, both Declarant and the Association shall have the right, but not the obligation, to

grant exemptions to schools, houses of worship, or Lots owned by and used by Persons qualifying for tax exempt status under Section 501(c) of the Internal Revenue Code.

8.10 Capitalization of Association

Upon acquisition of record title to a Lot by the first Owner thereof other than Declarant or a Builder, a contribution shall be made by or on behalf of the purchaser to the working capital of the Association in an amount equal to one-sixth of the annual Regular Assessment per Lot for that year. This amount shall be in addition to, not in lieu of, the Lot's annual Regular Assessment and shall not be considered an advance payment of such assessment. This amount shall be deposited into the purchase and sales escrow and then disbursed to the Association for use in covering operating expenses and other expenses incurred by the Association pursuant to this Declaration and the Bylaws.

8.11 Community Enhancement Fee

(a) Authority. As an additional funding source, the Board may establish and collect a Community Enhancement Fee upon each transfer of title to a Lot. The fee shall be charged to the seller of the Lot, shall be payable to the Association at the closing of the transfer, and shall be secured by the Association's lien for assessments under Section 8.8. Each Owner shall notify the Association's Secretary, or designee, at least seven days prior to the scheduled closing and provide the name of the buyer, the date of title transfer, and other information the Board may reasonably require.

(b) Fee Limit. The Board shall have the sole discretion to determine the amount of and method of calculating the Community Enhancement Fee. The fee may be based upon a sliding scale which varies in accordance with the gross selling price of the property or any other factor the Board deems appropriate. However, the Community Enhancement Fee may not exceed one percent (1%) of the Lot's gross selling price. The gross selling price is the total cost to the purchaser of the Lot, excluding transfer taxes, impact or other fees and title fees imposed by Wasatch County and/or the State of Utah.

(c) Purpose. The Community Enhancement Fees shall be used to provide funding for Association activities and such other purposes as the Board deems beneficial to the general good and welfare of Talisman and included in the Association's Common Expense budget, including for reserves. Community Enhancement Fees might also be used to assist one or more tax-exempt entities in funding:

(i) preservation and maintenance of natural areas, wildlife preserves, or similar conservation areas, and sponsorship of educational programs and activities which contribute to the overall understanding, appreciation, and preservation of the natural environment within and surrounding Talisman, or as may be necessary to comply with the Development Agreement;

(ii) programs, services, and activities which serve to promote a sense of community within Talisman, such as educational programs, festivals and holiday celebrations and activities, a Community computer network, and recycling programs; and

(iii) social services, educational programs, community outreach programs, and other charitable causes.

(d) Exempt Transfers. Notwithstanding the above, no Community Enhancement Fee shall be levied upon transfer of title to a Lot:

(i) by or to Declarant;

(ii) by a Builder who held title solely for purposes of development and resale without occupying the property as a residence or rental home;

(iii) by a co-owner to any Person who was a co-owner immediately prior to such transfer;

(iv) to the Owner's estate, surviving spouse, or heirs at law upon the death of the Owner;

(v) to an entity wholly owned by the grantor or to a family trust created by the grantor for the benefit of grantor, his or her spouse, and/or heirs at law; provided, upon any subsequent transfer of an ownership interest in such entity, the Community Enhancement Fee shall become due; or

(vi) to an institutional lender pursuant to a Mortgage or upon foreclosure of a Mortgage.

8.12 Use and Consumption Fees

The Board may charge use and consumption fees to any Person using Association services or facilities and may determine the amount and method of determining such fees. Different fees may be charged to different classes of users.

PART FOUR: COMMUNITY DEVELOPMENT

The Declaration reserves various rights to the developer in order to facilitate the smooth and orderly development of Talisman and to accommodate changes in the master plan which inevitably occur as a community the size of Talisman grows and matures.

ARTICLE IX: Expansion of the Community

9.1 Annexation by Declarant

Declarant may, from time to time, subject to this Declaration, annex all or any portion of the property described in Exhibit B by Recording a Supplemental Declaration describing the property being subjected. A Supplemental Declaration Recorded pursuant to this Section shall not require the consent of any Person except the owner of such property, if other than Declarant.

Declarant's right to annex property pursuant to this Section expires when all property described in Exhibit B has been subjected to this Declaration or forty (40) years after this Declaration is

Recorded, whichever is earlier. Until then, Declarant may transfer or assign this right to any Person who is the developer of at least a portion of the real property described in Exhibits A or B. Any such transfer shall be memorialized in a Recorded instrument executed by Declarant.

Nothing in this Declaration shall require Declarant or any successor to subject additional property to this Declaration or to develop any of the property described in Exhibit B in any manner whatsoever.

9.2 Annexation by the Association

The Association also may annex property to the provisions of this Declaration by Recording a Supplemental Declaration describing the additional property. Annexation by the Association shall require the affirmative vote or written consent of Owners and Village Representatives representing more than fifty percent (50%) of the Class A votes and the consent of the property owner. In addition, so long as Declarant owns property subject to this Declaration or which may become subject to this Declaration in accordance with Section 9.1, Declarant's consent is required. The Supplemental Declaration shall be signed by the President and Secretary of the Association, by the owner of the property, and by Declarant, if Declarant's consent is required.

9.3 Additional Covenants and Easements

By Supplemental Declaration, Declarant may impose additional covenants and easements on portions of the Community, including covenants obligating the Association to maintain and insure specific property and authorizing the Association to recover its costs through Village Assessments or Benefited Assessments. If the property is owned by someone other than Declarant, then such owner's consent and execution of the Supplemental Declaration is required. Any such Supplemental Declaration may supplement, create exceptions to, or otherwise modify the terms of this Declaration as it applies to the subject property in order to reflect the different character and intended use of such property.

9.4 Resort Area and Private Amenities

Portions of the real property on Exhibit B may be annexed as used within Resort Areas and as Private Amenities. No uses within such areas shall be included as Lots and no uses shall have any liability to pay any Common Expenses or Association Assessments unless so provided by Declarant in the Supplemental Declaration.

9.5 Effect of Filing Supplemental Declaration

A Supplemental Declaration shall be effective upon recording unless otherwise specified. The Lots subjected to this Declaration by Supplemental Declaration shall have equal voting rights in the Association and equal pro rata liability for Regular Assessments with all other Lots.

ARTICLE X: Additional Rights Reserved to Declarant

10.1 Withdrawal of Property

Declarant reserves the right to amend this Declaration, so long as it has a right to annex property pursuant to Section 9.1, to remove any unimproved portion of Talisman from the coverage of this Declaration, provided such withdrawal does not reduce the total number of Lots then subject to the Declaration by more than 10 percent.

Unimproved means that no structure has yet been built on the property. Such amendment shall not require the consent of any Person other than the Owners of the property to be withdrawn, if not the Declarant. If the property is Common Area, the Association shall consent to such withdrawal.

10.2 Marketing and Sales Activities

Notwithstanding anything in the Governing Documents to the contrary, Declarant and Builders may construct and maintain upon portions of the Common Area and other property owned by Declarant or the Builder such facilities, activities, and things as, in Declarant's opinion, may reasonably be required, convenient, or incidental to the construction or sale of Lots. Such permitted facilities, activities, and things include but are not limited to business offices, signs, flags (whether hung from flag poles or attached to a structure), model homes, sales offices, holding or sponsoring special events, and exterior lighting features or displays. In addition, if reasonably required, convenient, or incidental to construction or sales activities, Declarant and Builders may park vehicles in areas other than garages or driveways, including in streets. Builder's rights under this Section are subject to Declarant's approval.

10.3 Right to Develop

Declarant and its employees, agents, and designees shall have a right of access and use and an easement over and upon all of the Common Area for the purpose of making, constructing, and installing such improvements to the Common Area, and to the Exhibit B property, as it deems appropriate in its sole discretion.

Each Owner acknowledges that Talisman is a master planned community, the development of which is likely to extend over many years, and agrees not to protest, challenge, or otherwise object to (a) changes proposed by Declarant in uses or density of property outside the Owner's Village or portion of a subdivision served by any local street (as distinguished from a collector or arterial street) serving Owner's Lot, or (b) changes proposed by Declarant in the Master Plan as it relates to property outside the Owner's Village or portion of Owner's subdivision served by a local street.

10.4 Right to Approve Changes in Talisman Standards

No amendment to or modification of any Use Restrictions, rules, or the Design Guidelines shall be effective without prior notice to and the written approval of Declarant so long as Declarant owns any portion of the Community or has a unilateral right to annex property in accordance with Section 9.1.

10.5 Right to Transfer or Assign Declarant Rights

Any or all of Declarant's special rights and obligations set forth in this Declaration or the Bylaws may be transferred in whole or in part to other Persons; provided, the transfer shall not reduce an obligation nor enlarge a right beyond that which Declarant has under this Declaration or the Bylaws. No such transfer or assignment shall be effective unless it is in a Recorded instrument signed by Declarant. Declarant may allow other Persons to exercise, on a one time or limited basis, any Declarant right without transferring the entire right. In such case, a Recorded instrument is not required.

10.6 Exclusive Rights to Use Name of Development

No Person shall use the name Talisman or any derivative of Talisman in any printed or promotional material, or in logo or depiction, without Declarant's prior written consent. However, Owners may use the name Talisman where such term is used solely to specify that particular property is located within Talisman.

10.7 Right to Use Common Area for Special Events

As long as Declarant owns any property described in Exhibits A or B, Declarant may use the Common Area to sponsor special events for charitable, philanthropic, political, or marketing purposes, subject to the following conditions:

- (a) the availability of the facilities at the time a request is submitted to the Association;
- (b) Declarant shall pay all costs and expenses incurred and shall indemnify the Association against any loss or damage resulting from the special event; and
- (c) Declarant shall return the facilities and personal property used in conjunction with the special event to the association in the same general condition as existed prior to the special events.

Declarant shall have the right to assign its rights to charitable organizations or foundations selected by Declarant. Declarant's right to use the Common Area for special events shall be enforceable by injunction, by any other remedy in law or equity, and by the terms of this Declaration.

10.8 Easement to Inspect and Right to Correct

Declarant reserves for itself and others it may designate the right to inspect, monitor, test, redesign, and correct any structure, improvement, or condition which may exist on any portion of Talisman, including Lots, and a perpetual nonexclusive easement of access throughout the Community to the extent reasonably necessary to exercise such right. Except in an emergency or in the case of an inspection relating to construction or in a case involving enforcement of a violation of this Declaration, the Design Guidelines or any condition of design review approval, entry onto a Lot shall be only after reasonable notice to the Owner and no entry into the interior of an occupied Residence or other structure on a Lot shall be permitted without the Owner's consent. Except where entry is necessary to abate a violation of this Declaration, the Design Guidelines or any condition of design review approval, the Person exercising this easement shall promptly repair, and pay for, any resulting damage.

10.9 Right to Notice of Design or Construction Claims

No Person shall retain an expert for the purpose of inspecting the design or construction of any structures or improvements within Talisman in connection with or in anticipation of any potential or pending claim, demand, or litigation involving such design or construction unless Declarant and any Builder involved in the design or construction have been first notified in writing and given an opportunity to meet with the property Owner and conduct an inspection.

10.10 Termination of Rights

Rights granted under Sections 10.1 to 10.9 of this Article shall terminate upon the earlier of (a) the period specified in the particular Section; (b) forty (40) years from the date this Declaration is Recorded; or (c) Declarant's Recording of a statement that all sales activity and resale activity within Declarant's control has ceased. Thereafter, Declarant may continue to use the Common Areas for the purposes stated in this Article only pursuant to a rental or lease agreement between Declarant and the Association which provides for rental payments based on the fair market rental value of any such portion of the Common Areas. This Article shall not be amended without the written consent of Declarant so long as Declarant owns any property described in Exhibits A or B.

10.11 Special Natural Gas Arrangements

Declarant reserves the right to install or not install natural gas service as a part of the Community improvements. In the event natural gas service is not installed, each Owner of an improved Lot desiring gas service will be required to install propane gas service. Declarant has ascertained that, due to the Community's size and remote location, natural gas service will require the installation of special high pressure gas pipelines and related pressure reducing facilities in addition to gas distribution infrastructure normally installed by a developer, and that the cost of the high pressure lines and pressure reducing facilities alone, excluding typical gas mains and service laterals, is likely to equal or exceed the total cost of owner-installed propane service to all proposed Lots within the Community. Declarant will attempt to arrange for natural gas service under an agreement with the gas supplier to include the cost of the high pressure lines and related

pressure reducing facilities in the rate structure for gas service. In the event Declarant is required to pay for all or any part of the high pressure lines and related facilities, and Declarant elects to proceed with natural gas service to the Lots, a gas facilities connection fee may be charged by the Association at the time of application for Design Review pursuant to the Design Guidelines and the provisions of Article IV above. The fee will be calculated so as to reimburse Declarant for Declarant's cost of the high pressure gas lines and related pressure reducing facilities with accrued interest and shall be paid by the Association to Declarant when received.

10.12 Special Water Connection Arrangements

The Water Service Agreement between Declarant and Jordanelle Special Services District (JSSD) contemplates that Declarant will bond and pay up front for the development of certain water resources and central water system facilities of benefit to the Lot Owners in lieu of a Lot Owner paying JSSD's standard water system development fee at the time of building permit for improvements on the Lot. Declarant will pay off all bond amounts and interest relating to onsite water distribution facilities serving Lots. Declarant reserves the right to permit a proportionate part of the bond representing JSSD central system facilities and related charges, including interest, to remain as a lien on each Lot to be paid by an Owner in lieu of the JSSD's standard water system development fee at the time of building permit. Any such lien, at the election of Declarant, will not be paid off at any closing between Declarant and a Lot Owner, and any such lien shall become the responsibility of the Lot Owner in lieu of the Lot Owner's payment to JSSD of the District's standard water system development fee. If not sooner paid, the central system facilities lien will be paid by the Lot Owner at the time of building permit for improvements on the Lot. The Water Service Agreement may also require Declarant to pay certain charges relating to water resources and central water system facilities, including standby fees, and early payments of bond interest and principal relating to central system facilities, of direct benefit to Lots within the Community. Declarant reserves the right to be reimbursed by JSSD for some or all of Declarant's costs under the Water Service Agreement relating to water resources and JSSD's central water system facilities.

PART FIVE: PROPERTY RIGHTS WITHIN THE COMMUNITY

The nature of living in a planned community, with its wide array of properties and development types and its ongoing development activity, requires the creation of special property rights and provisions to address the needs and responsibilities of the Owners, Declarant, the Association, and others within or adjacent to the Community.

ARTICLE XI: Easements

11.1 Easements in Common Area

Declarant grants to each Owner a right and easement of use, access, and enjoyment in and to the Common Area, subject to:

- (a) The Governing Documents and any other applicable covenants;
- (b) Any restrictions or limitations contained in any deed conveying the property to the Association;
- (c) The Board's right to:
 - (i) adopt rules regulating Common Area use, including rules limiting the number of guests who may use the Common Area;
 - (ii) suspend the right of an Owner to use any Common Area amenity (A) for any period during which any assessment or other charge against the Owner's Lot remains delinquent, and (B) for a period not to exceed thirty (30) days for a single violation, or for a longer period in the case of any continuing violation, of the Governing Documents;
 - (iii) dedicate or transfer all or any part of the Common Area, subject to any approval requirements set forth in this Declaration;
 - (iv) rent any portion of any Common Area recreational facilities on an exclusive or non-exclusive short-term basis to any Person;
 - (v) permit use by the general public, which use may be subject to admission charges, membership fees, or other user fees established in the Board's discretion;
 - (vi) mortgage, pledge, or hypothecate any or all of the Common Area as security for money borrowed or debts incurred; and
- (d) The rights of certain Owners to the exclusive use of those portions of the Common Area designated Limited Common Areas, as described in Article XII.

Any Owner may extend his or her right to use the Common Area to the members of his or her family, tenants, and social invitees, as applicable, subject to reasonable Board regulation. An Owner who leases his or her Lot shall be deemed to have assigned all such rights to the tenants of such Lot for the lease term.

11.2 Easements of Encroachment

Declarant grants easements of encroachment, and for maintenance and use of any permitted encroachment, between each Lot and any adjacent Common Area and between adjacent Lots. A permitted encroachment is a structure or fixture which extends unintentionally from one person's property on to another's a distance of less than three (3) feet, as measured from any point on the common boundary along a line perpendicular to such boundary. An encroachment easement shall not exist if the encroachment results from willful and knowing conduct on the part of, or with the knowledge and consent of, the Person claiming the benefit of such easement.

11.3 Easements for Utilities, Etc.

(a) Installation and Maintenance. Declarant reserves for itself, so long as Declarant owns any property described in Exhibit A or B and may in its sole discretion grant to the Association and utility providers, perpetual non-exclusive easements throughout Talisman (but not through a structure) to the extent reasonably necessary to:

- (i) install utilities and infrastructure to serve Talisman, cable and other systems for sending and receiving data and/or other electronic signals, drainage systems, and security and similar systems;
- (ii) install walkways, pathways and trails, street lights, and signage on property which Declarant or the Association owns or within public rights-of-way or easements reserved for such purpose on a Plat;
- (iii) inspect, maintain, repair, and replace the utilities, infrastructure, and other improvements described above; and
- (iv) access and read utility meters.

Notwithstanding the above, Declarant reserves the right to deny access to any utility or service provider, to the extent permitted by law, or to condition such access on negotiated terms.

(b) Specific Easements. Declarant also reserves for itself the non-exclusive right and power to grant and record such specific easements as may be necessary, in Declarant's sole discretion, to develop the property described in Exhibits A and B. The location of the easement shall be subject to the written approval of the burdened property Owner, which approval shall not unreasonably be withheld, delayed, or conditioned.

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

11.4 Technology Utility Easements

Declarant reserves exclusive easements in or adjacent to all Association-owned roads, and trails and any public trail rights-of-way throughout Talisman, on behalf of itself, and its nominees, successors, and assigns, for installing, operating, maintaining, repairing, and replacing telephone, cable television, telecommunications, security, and other systems for sending and receiving data

and/or other electronic signals (Technology Utilities), serving Talisman. Declarant shall have ownership and exclusive control of all conduit, cable, lines or other means of distributing Technology Utilities serving Talisman. Declarant may grant or convey these easements to third parties. Declarant also reserves for itself the exclusive right and power to enter into contracts for the construction, installation, and provision of Technology Utilities and may grant exclusive rights to access or use the Technology Utilities.

Declarant may require that the Board enter into a bulk rate service agreement with Declarant or its assignee for the provision of Technology Utilities services to all Lots as a Common Expense. If particular services or benefits are provided to particular Owners or Lots at their request, the benefited Owners shall pay the service provider directly for such services, or the Association may assess the costs as a Village Assessment or Benefited Assessment, as appropriate.

11.5 Easements to Serve Additional Property

Declarant reserves for itself and its duly authorized agents, successors, assigns, and mortgagees, an easement over the Common Area for enjoyment, use, access, and development of the property described in Exhibit B, whether or not such property is made subject to this Declaration. This easement includes, but is not limited to, a right of ingress and egress over the Common Area for construction of roads and for connecting and installing utilities.

If the above easement grants permanent access to any property which is not submitted to this Declaration, Declarant, or its successors or assigns, shall enter into a reasonable agreement with the Association to share the cost maintenance the Association provides for the benefit of the easement holder. The shared maintenance costs may include maintenance to or along any roadway providing access to the benefited property.

11.6 Easements for Maintenance, Emergency, and Enforcement

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

Declarant grants to the Association, subject to any required notice, an easement and right to enter a Lot to abate a Governing Document violation and/or to remove any structure, thing, or condition which violates the Governing Documents. Any costs incurred, including reasonable attorney fees, shall be assessed against the Lot Owner as a Benefited Assessment.

11.7 Easements for Private Amenities

The Lots, the Common Area, and the common property of any Village Organization are burdened with an easement permitting golf balls, golf clubs, and parts thereof, unintentionally to come upon such areas, and for golfers at reasonable times and in a reasonable manner to come upon the Common Area, common property of a Village, or the exterior portions of a Lot to retrieve errant golf balls, golf clubs, and parts thereof; provided, however, if any Lot is fenced or walled, the golfer shall seek the Owner's permission before entry. The existence of this easement shall not relieve golfers of liability for damage caused by errant golf balls, golf clubs, and parts thereof. Under no circumstances shall any of the following Persons be held liable for any damage or injury resulting from errant golf balls, golf clubs, or parts thereof, or the exercise of this easement: Declarant, the Association or its Members (in their capacities as such); the owner of any golf course, its successors, successors-in-title to the golf course, or assigns; Builders (in their capacities as such); or any officer, director, or partner of any of the foregoing, or any officer or director of any partner.

The owner of any Talisman golf course, its agents, successors and assigns, shall at all times have a right and non-exclusive easement of access and use over those portions of the Common Areas reasonably necessary to the operation, maintenance, repair and replacement of the golf course.

Any portion of the Community immediately adjacent to a golf course is hereby burdened with a non-exclusive easement for overspray of water (which may include raw water and/or treated sewage effluent) from the irrigation system serving the golf course. Under no circumstances shall the Association or the owner of the golf course be held liable for any damage or injury resulting from such overspray or the exercise of this easement.

The owner of the golf course, its successors and assigns, shall have a perpetual, exclusive easement of access over the Community for the purpose of retrieving golf balls from bodies of water and from land within the Common Areas lying reasonably within range of golf balls hit from the golf course.

11.8 Easements for Lake and Pond Maintenance and Flood Water

Declarant reserves for itself, the Association, and their successors, assigns, and designees, the nonexclusive right and easement, but not the obligation, to enter upon bodies of water and wetlands located within the Common Maintenance Areas to (a) install, operate, maintain, and replace pumps to supply irrigation water to the Common Maintenance Areas; (b) construct, maintain, and repair structures and equipment used for retaining water; and (c) maintain such areas in a manner consistent with the Community-Wide Standard. Declarant, the Association, and their successors, assigns, and designees shall have an access easement over and across any portion of the Community which abuts or contains bodies of water or wetlands to the extent reasonably necessary to exercise their rights under this Section.

Declarant further reserves for itself, the Association, and their successors, assigns and designees, a perpetual, nonexclusive right and easement of access and encroachment over the Common

Area and Lots (but not inside a Residence or other structure) adjacent to or within 100 feet of bodies of water and wetlands within Talisman, in order to (a) temporarily flood and back water upon and maintain water over such portions of Talisman; (b) alter in any manner and generally maintain the bodies of water and wetlands within the Common Maintenance Areas; and (c) maintain and landscape the slopes and banks pertaining, to such areas. Anyone exercising these easements shall use reasonable care in and repair any damage resulting from their intentional exercise of the easements. Nothing herein shall be construed to make Declarant or any other Person liable for damage resulting from flooding due to natural occurrences.

11.9 Easements for Cross-Drainage

Every Lot and the Common Area shall be burdened with easements for natural drainage of storm water runoff from other portions of the Community; provided, no Person shall alter the natural drainage on any Lot to increase materially the drainage of storm water onto adjacent portions of the Community without the consent of the Owners of the affected property, the Board, and Declarant as long as it owns any property described in Exhibits A or B to the Declaration.

11.10 Rights to Storm water Runoff, Effluent, and Water Reclamation

Declarant reserves for itself and its designees all rights to ground water, surface water, storm water runoff, and effluent located or produced within the Community, and each Owner agrees, by acceptance of a deed to a Lot, that Declarant shall retain all such rights. Such rights shall include the reservation of an easement over the Community for access, and for installation and maintenance of facilities and equipment to capture, transport and discharge such water, runoff, and effluent. This Section may not be amended without Declarant's consent, and the rights created in this Section shall survive termination of this Declaration.

ARTICLE XII: Limited Common Areas

12.1 Purpose

Certain portions of the Common Area may be designated as Limited Common Area and reserved for the exclusive use or primary benefit of Owners and occupants within a particular Village or Villages or a group of Owners outside of a Village as designated by Declarant in a Supplemental Declaration. For example, Limited Common Areas may include entry features, recreational facilities, landscaped medians and cul-de-sacs, lakes, and other portions of the Common Area within a particular Village or Villages or benefiting a particular group of Lots. All costs associated with maintenance, repair, replacement, and insurance of a Limited Common Area shall be a Village Expense allocated among the Owners in the Villages to which the Limited Common Areas are assigned, or shall be assigned as a Benefited Assessment to benefited Owners.

12.2 Designation

Initially, any Limited Common Area shall be designated as such in a Supplemental Declaration, the deed conveying such area to the Association, or on a Plat; provided, any such assignment shall not preclude Declarant from later assigning use of the same Limited Common Area to additional Lots and/or Villages, so long as Declarant has a right to subject additional property to this Declaration pursuant to Section 9.1. In addition, a portion of the Common Area may be assigned as Limited Common Area, and Limited Common Area may be reassigned, upon Board approval and the vote of Owners and any Village Representatives together representing a majority of the total Class A votes in the Association, and Members representing a majority of the Class A votes within the Village(s) or other areas outside Villages affected by the proposed assignment or reassignment. As long as Declarant owns any property subject to this Declaration or which may become subject to this Declaration in accordance with Section 9.1, Declarant's written consent also is required.

12.3 Use by Others

If a majority of Owners of Lots within the Village or other specified area to which any Limited Common Area is assigned approve, the Association may permit Owners of Lots outside of the Village or other benefited area to use all or a portion of such Limited Common Area upon payment of reasonable user fees, which fees shall be used to offset the Village Expenses attributable to such Limited Common Area.

ARTICLE XIII: Party Walls and Other Shared Structures

13.1 General Rules of Law to Apply

Each wall, fence, driveway, or similar structure built as a part of the original construction on the Lots which serves and/or separates any two adjoining Lots shall constitute a party structure. To the extent not inconsistent with the provisions of this Section, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply to party structures. Any dispute arising concerning a party structure shall be handled in accordance with the provisions of Article XIV.

13.2 Maintenance; Damage and Destruction

Unless otherwise specifically provided in additional covenants relating to such Lots, the cost of necessary or appropriate party structure repairs and maintenance shall be shared equally by the Owners sharing the party structure. If a party structure is destroyed or damaged by fire or other casualty, then to the extent that such damage is not covered by insurance and repaired out of the proceeds of insurance, any Owner sharing the structure may restore it. If other Owners thereafter share in the use of the structure, they shall contribute to the restoration cost in equal proportions. However, such contribution will not prejudice the right to call for a larger contribution from the other users under any rule of law regarding liability for negligent or willful acts or omissions.

The right of any Owner to contribution from any other Owner under this Section shall be appurtenant to the land and shall pass to such Owner's successors-in-title.

PART SIX: RELATIONSHIPS WITHIN AND OUTSIDE THE COMMUNITY

The growth and success of Talisman as a community in which people enjoy living, working, and playing requires good faith efforts to resolve disputes amicably, attention to and understanding of relationships within the Community and with our neighbors, and protection of the rights of others who have an interest in the community.

ARTICLE XIV: Dispute Resolution and Limitation on Litigation

14.1 Agreement to Encourage Resolution of Disputes without Litigation

(a) Declarant, the Association and its officers, trustees, and committee members, all Persons subject to this Declaration, and any Person not otherwise subject to this Declaration who agrees to submit to this Article (collectively, "Bound Parties"), agree to attempt to resolve disputes involving Talisman without the emotional and financial costs of litigation. Accordingly, each Bound Party agrees not to file a lawsuit for a Claim described in subsection (b), without first submitting the Claim to the alternative dispute resolution procedures described in Section 14.2.

(b) As used in this Article, the term Claim shall refer to my claim, grievance, or dispute arising out of or relating to:

- (i) the interpretation, application, or enforcement of the Governing Documents;
- (ii) the rights, obligations, and duties of any Bound Party under the Governing Documents; or
- (iii) any dispute between an Owner and an owner or user of property outside of Talisman, which dispute relates to the agricultural operations of the non-Talisman party;
- (iv) the design or construction of improvements within the Community, other than matters of aesthetic judgment under Article IV, which shall not be subject to review, except that the following shall not be considered claims unless all parties to the matter otherwise agree to submit the matter to the procedures set forth in Section 14.2:
 - (1) any Association action to collect assessments or other amounts due from any Owner;
 - (2) any Association or Declarant action to obtain a temporary restraining order (or emergency equitable relief) and such ancillary relief as the court may deem necessary in order to maintain the status quo and preserve the Association's ability to enforce the provisions of Part Two of this Declaration (relating to

creation and maintenance of Community standards);

(3) any suit between Owners, which does not include Declarant or the Association as a party, if such suit asserts a Claim which would constitute a cause of action independent of the Governing Documents;

(4) any suit in which any indispensable party is not a Bound Party; and

(5) any suit as to which the applicable statute of limitations would expire within 180 days of giving the Notice required by Section 14.2(a), unless the party or parties against whom the Claim is made agree to toll, or extend, the Claim's statute of limitations to comply with this Article.

14.2 Dispute Resolution Procedures

(a) Notice. The Bound Party asserting a Claim (Claimant) against another Bound Party (Respondent) shall give written notice (Notice) by mail or personal delivery to each Respondent, and to the Board, stating plainly and concisely:

- (i) the nature of the Claim, including the Persons involved and Respondent's role in the Claim;
- (ii) the legal basis of the Claim (i.e., the specific authority out of which the Claim arises);
- (iii) the Claimant's proposed resolution or remedy; and
- (iv) the Claimant's desire to meet with the Respondent to discuss in good faith ways to resolve the Claim.

(b) Negotiation. The Claimant and Respondent shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation. If requested in writing, accompanied by a copy of the Notice, the Board may appoint a representative to assist the parties in negotiating a resolution of the Claim.

(c) Mediation. If the Bound Parties have not resolved the Claim through negotiation within thirty (30) days of the date of the Notice (or within such other agreed upon period), the Claimant shall have thirty (30) additional days to submit the Claim to mediation with an entity designated by the Association (if the Association is not a party to the Claim) or to an independent agency providing dispute resolution services in the Wasatch County, Utah area. Each Bound Party shall present the mediator with a written summary of the Claim.

If the Claimant does not submit the Claim to mediation within such time, or does not appear for and participate in good faith in the mediation when scheduled, the Claimant shall be deemed to have waived the Claim, and the Respondent shall be relieved of any and all liability to the Claimant (but not third parties) on account of such Claim.

If the Bound Parties do not settle the Claim within thirty (30) days after submitting the matter to mediation, or within such time as determined reasonable by the mediator, the mediator shall issue a notice of termination of the mediation proceedings indicating that the Parties are at an impasse and the date that mediation was terminated. The Claimant shall thereafter be entitled to file suit or to initiate administrative proceedings on the Claim, as appropriate.

Each Bound Party shall bear its own costs of the mediation, including attorney fees, and each Party shall share equally all fees charged by the mediator.

d) Settlement. Any settlement of the Claim through negotiation or mediation shall be documented in writing and signed by the Bound Parties. If any Bound Party thereafter fails to abide by the terms of such agreement, then any other Bound Party may file suit or initiate administrative proceedings to enforce such agreement without the need to again comply with the procedures set forth in this Section. In such event, the Bound Party taking action to enforce the agreement shall, upon prevailing, be entitled to recover from the non-complying Bound Party (or each one in equal proportions) all costs incurred in enforcing such agreement, including, without limitation, attorney fees and court costs.

(e) Adjacent Property Disputes. The Development Agreement contemplates that disputes between Talisman Owners and the owners or user of adjacent agricultural lands will be addressed by the Association, and the Association and all Bound Parties will follow the foregoing dispute resolution procedures with respect to any such Claims on the condition that the non-Talisman parties also agree to be bound by such procedures. The Association shall use reasonable efforts to obtain the agreement of any such non-Talisman parties to become Bound Parties and to follow the procedures set forth above in resolving disputes. In the event the non-Talisman parties refuse, the Association shall use reasonable efforts to attempt to resolve any such dispute and to mitigate any adverse impacts caused by Talisman parties upon the agricultural operations of neighboring property owners and users.

14.3 Initiation of Litigation by Association

The Association shall not initiate any judicial or administrative proceeding unless first approved by Members entitled to cast at least 75% of the total Class A votes in the Association, except that no such approval shall be required for actions or proceedings:

- (a) initiated during the Class B Control Period;
- (b) initiated to enforce the provisions of this Declaration, including collection of assessments and foreclosure of liens;
- (c) initiated to challenge ad valorem taxation or condemnation proceedings;
- (d) initiated against any contractor, vendor, or supplier of goods or services arising out of a contract for services or supplies; or
- (e) to defend claims filed against the Association or to assert counterclaims in proceedings

instituted against it.

ARTICLE XV: Private Amenities

15.1 Right to Use the Private Amenities

Neither membership in the Association nor ownership or occupancy of a Lot shall automatically confer any right to use any Private Amenity. Rights to use any Private Amenity, and the terms and conditions of use, are determined only by the Private Amenity owner. Any Private Amenity owner shall have the right, from time to time in its sole and absolute discretion and without notice, to amend or waive the terms and conditions relating use of the Private Amenity, including, without limitation, eligibility for and duration of use rights, categories of use, extent of use privileges, and number of users, and shall also have the right to reserve use rights and to terminate use rights altogether, subject to the terms of any written membership agreements or documents.

15.2 Conveyance of Private Amenities

All Persons, including all Owners, are advised that no representations or warranties have been or are made by Declarant, the Association, any Builder, or by any Person acting on behalf of any of the foregoing, with regard to the continuing ownership or operation of any Private Amenity or Resort area. No purported representation or warranty in such regard, either written or oral, shall be effective unless specifically set forth in a written instrument executed by the Record owner of any Private Amenity or Resort area. The ownership or operation of any Private Amenity or Resort area (or any portion of a Private Amenity or Resort area) may change at any time. Consent of the Association or any Owner shall not be required to effectuate any change in ownership or operation of any Private Amenity or Resort area, for or without consideration and subject to or free of any mortgage, covenant, lien, or other encumbrance.

15.3 Assumption of Risk and Indemnification

By purchasing a Lot in the vicinity of a golf course or other Private Amenity or designated Resort area, each Owner expressly assumes the risk of noise, personal injury, or property damage caused by maintenance and operation of such Private Amenity or Resort area, including, without limitation: (a) noise from maintenance equipment (it being specifically understood that maintenance typically takes place around sunrise or sunset), (b) noise caused by golfers, (c) use of pesticides, herbicides, and fertilizers, (d) use of effluent in the irrigation of the golf course, (e) reduction in privacy caused by constant golf traffic on the golf course or the removal or pruning of shrubbery or trees on the golf course, (f) errant golf balls and golf clubs, (g) design or redesign of the golf course; and (h) street traffic or noise.

Each Owner agrees that Declarant, the Association, any Private Amenity or Resort owner(s), and any of Declarant's affiliates or agents shall not be liable to any Owner or any other Person claiming any loss or damage, including, without limitation, indirect, special, or consequential loss or damage arising from personal injury, destruction of property, trespass, loss of enjoyment, or any other alleged wrong or entitlement to remedy based upon, due to, arising from, or

otherwise related to the proximity of Owner's Lot to the golf course or other Private Amenity or any Resort, including, without limitation, any claim arising in whole or in part from the negligence of Declarant, any of Declarant's affiliates or agents, or the Association. The Owner agrees to indemnify and hold harmless Declarant, Declarant's affiliates and agents, and the Association against any and all such claims by Owner's visitors, tenants, and others upon such Owner's Lot.

15.4 View Impairment

Neither Declarant nor the Association guarantees or represents that any view over and across any golf course from adjacent Lots will be preserved without impairment. This Declaration does not create an obligation of the Association, Declarant, or any Private Amenity or Resort owner to relocate, prune, or thin trees or other landscaping except as provided in Article V. In its sole and absolute discretion, any Private Amenity or Resort owner may add trees and other landscaping to such golf course from time to time. In addition, any Private Amenity owner may, in its sole and absolute discretion, change the location, configuration, size and elevation of the tees, bunkers, fairways, and greens on such golf course from time to time. Any such additions or changes to such golf course may diminish or obstruct the view from the Lots. Any express or implied easements for view purposes or for the passage of light and air are expressly disclaimed.

15.5 Rights of Access and Parking

There is established for the benefit of any Private Amenity and its members and any Resort area owner (regardless of whether such members are Owners hereunder), guests, invitees, employees, agents, contractors, and designees, a right and non-exclusive easement of access and use over all roadways located within the Community reasonably necessary to travel between an entrance to the Community and the Private Amenity or Resort area and over those portions of the Community (whether Common Area or otherwise) reasonably necessary to the operation, maintenance, repair, and replacement of the Private Amenity or Resort area. Without limiting the generality of the foregoing, members, guests and invitees of any Private Amenity or Resort area shall have the right to park their vehicles on the roadways located within the Community, in areas where resident/guest parking is otherwise permitted and at reasonable times before, during, and after functions held by or at the Private Amenity or Resort area to the extent that the Private Amenity or Resort area has insufficient parking to accommodate such vehicles.

15.6 Architectural Control

Declarant, the Association, any Village Organization, or any committee shall not approve any construction, addition, alteration, change, or installation on, or to any portion of the Community which is adjacent to, or otherwise in the direct line of sight of any Private Amenity without giving the Private Amenity at least fifteen (15) days' prior written notice of its intent to approve the same together with copies of the request and all other documents and information finally submitted in such regard. The Private Amenity shall then have fifteen (15) days to respond in writing approving or disapproving the proposal, stating in detail the reasons for any disapproval. The failure of the Private Amenity to respond to the notice within the 15-day period shall constitute a waiver of the Private Amenity's right to object to the matter. This Section shall also

apply to any work on the Common Area or any common property or common elements of a Village Organization, if any.

15.7 Limitations on Amendments

In recognition of the fact that the provisions of this Article are for the benefit of the Private Amenities and Resort areas, no amendment to this Article, and no amendment in derogation of any other provisions of this Declaration benefiting any Private Amenity or Resort area, may be made without the written approval of the affected Private Amenity or Resort area owner. The foregoing shall not apply, however, to amendments made by Declarant.

15.8 Jurisdiction and Cooperation

Declarant intends that the Association and the Private Amenities and Resorts shall cooperate to the maximum extent possible in the operation of the Community and the Private Amenities. Each shall reasonably assist the other in upholding the Community-Wide Standard as it pertains to maintenance and the Design Guidelines. The Association shall have no power to promulgate Use Restrictions affecting activities on or use of any Private Amenity or Resort without the prior written consent of the owners of the Private Amenity or Resort affected thereby.

ARTICLE XVI: Mortgagee Provisions

The following provisions are for the benefit of holders, insurers, and guarantors of first Mortgages on Lots. The provisions of this Article apply to both this Declaration and to the Bylaws, notwithstanding any other provisions contained therein.

16.1 Notices of Action

An institutional holder, insurer, or guarantor of a first Mortgage which provides a written request to the Association (such request to state the name and address of such holder, insurer, or guarantor and the street address of the Lot to which its Mortgage relates, thereby becoming an Eligible Holder), will be entitled to timely written notice of:

- (a) Any condemnation loss or any casualty loss which affects a material portion of Talisman or which affects any Lot on which there is a first Mortgage held, insured, or guaranteed by such Eligible Holder;
- (b) Any delinquency in the payment of assessments or charges owed by a Lot subject to the Mortgage of such Eligible Holder, where such delinquency has continued for a period of sixty (60) days, or any other violation of the Governing Documents relating to such Lot or the Owner or occupant which is not cured within sixty (60) days;
- (c) Any lapse, cancellation, or material modification of any Association insurance policy; or
- (d) Any proposed action which would require the consent of a specified percentage of Eligible Holders.

16.2 No Priority

No provision of this Declaration or the Bylaws gives or shall be construed as giving any Owner or other party priority over any rights of the first Mortgagee of my Lot in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Area.

16.3 Notice to Association

Upon request, each Owner shall be obligated to furnish to the Association the name and address of the holder of any Mortgage encumbering the Owner's Lot.

16.4 Failure of Mortgagee to Respond

Any Mortgagee who receives a written request from the Board to respond to or consent to any action shall be deemed to have approved such action if the Association does not receive a written response from the Mortgagee within thirty (30) days of the date of the Association's request, provided such request is delivered to the Mortgagee by certified or registered mail, return receipt requested.

Part Seven: CHANGES IN THE COMMUNITY

Communities such as Talisman are dynamic and constantly evolving as circumstances, technology, needs and desires, and laws change, as the residents age and change over time, and as the surrounding community changes. Talisman and its Governing Document must be able to adapt to these changes while protecting the things that make Talisman unique.

ARTICLE XVII: Changes in Ownership of Lots

Any Owner, other than Declarant, desiring to sell or otherwise transfer title to his or her Lot shall give the Board at least fourteen (14) days' prior written notice of the name and address of the purchaser or transferee, the date of such transfer of title, and such other information as the Board may reasonably require. The transferor shall continue to be jointly and severally responsible with the transferee for all obligations of the Lot Owner, including assessment obligations, until the date upon which such notice is received by the Board, notwithstanding the transfer of title.

ARTICLE XVIII: Changes in Common Area

18.1 Condemnation

Whenever any part of the Common Area is taken or conveyed under threat of condemnation by any authority having the power of eminent domain, the Board shall determine, in the exercise of

its business judgment, whether each Owner is entitled to notice. The Board may convey Common Area under threat of condemnation only if approved by the Declarant, as long as Declarant owns any property described in Exhibits A or B.

The award made for such taking shall be payable to the Association as trustee for all Owners to be disbursed as follows: If the taking involves a portion of the Common Area on which improvements have been constructed, the Association shall restore or replace such improvements on the remaining land included in the Common Area to the extent practicable, unless, within sixty (60) days after such taking, Declarant, so long as Declarant owns any property described in Exhibits A or B of this Declaration, agrees. Any such construction shall be in accordance with plans approved by the Board. The provisions of Section 7.3 regarding funds for the repair of damage or destruction shall apply.

If the taking does not involve any improvements on the Common Area, or if a decision is made not to repair or restore, or if net funds remain after any such restoration or replacement is complete, then such award or net funds shall be disbursed to the Association and used for such purposes as the Board shall determine.

18.2 Partition

Except as permitted in this Declaration, the Common Area shall remain undivided, and no Person shall bring any action for partition of any portion of the Common Area without the written consent of all Owners and Mortgagees. This Section shall not prohibit the Board from acquiring and disposing of tangible personal property nor from acquiring and disposing of real property which may or may not be subject to this Declaration.

18.3 Transfer, Dedication or Preservation of Common Area

The Association may dedicate portions of the Common Area to Wasatch County, Utah or to any other local, state, or federal governmental or quasi-governmental entity, or grant conservation easements over any such property.

ARTICLE XIX: Amendment of Declaration

19.1 By Declarant

In addition to specific amendment rights granted elsewhere in this Declaration, until a Lot is conveyed to a Person other than a Builder, Declarant may unilaterally amend this Declaration for any purpose. Thereafter, Declarant may unilaterally amend this Declaration if such amendment is necessary (a) to bring any provision into compliance with any applicable governmental statute, rule, regulation, or judicial determination; (b) to enable any reputable title insurance company to issue title insurance coverage on the Lots; (c) to enable any institutional or governmental lender, purchaser, insurer, or guarantor of mortgage loans, including, for example, the Federal National Mortgage Corporation or the Federal Home Loan Mortgage Corporation, to make, purchase, insure, or guarantee mortgage loans on the Lots; or (iv) to satisfy the requirements of any local, state, or federal governmental agency. However, any such amendment shall not adversely affect

the title to any Lot unless the Owner shall consent in writing.

So long as Declarant owns property described on Exhibits A or B for development as part of Talisman, it may unilaterally amend this Declaration for any other purpose, provided the amendment has no materially adverse effect upon the rights of more than five percent (5%) of the Members.

19.2 By Members

Except as otherwise specifically provided above and elsewhere in this Declaration, this Declaration may be amended only by the affirmative vote or written consent of at least seventy five percent (75%) of the votes in the Community. In addition, so long Declarant owns any property subject to this Declaration or which may become subject to this Declaration in accordance with Section 9.1, Declarant's consent is required. The approval requirements set forth in Article XVI also shall be met, if applicable. Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

19.3 Validity and Effective Date

No amendment may remove, revoke, or modify any right or privilege of Declarant or the Class B Member without the written consent of Declarant or the Class B Member, respectively (or the assignee of such right or privilege).

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

Any amendment shall become effective upon Recording, unless a later effective date is specified in the amendment. Any procedural challenge to an amendment must be made within six (6) months of its Recordation or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of this Declaration.

19.4 Exhibits

Exhibits A and B attached to this Declaration are incorporated by this reference and amendment of such exhibits shall be governed by this Article. Exhibit C is incorporated by reference and may be amended as provided in Article III or pursuant to Sections 19.1 and 19.2. All other exhibits are attached for informational purposes and may be amended as provided therein or in the provisions of this Declaration which refer to such exhibits.

Part Eight: RESPONSIBILITIES TO THE GREATER WASATCH COUNTY COMMUNITY

The Association and Talisman Owners have responsibilities to the Greater Wasatch County Community which are more fully set forth in the Development Agreement. Talisman Owners as well as the Association must comply with certain standards and participate in certain financial obligations in order to achieve the objectives of Talisman as provided in the Development Agreement.

ARTICLE XX: Talisman Responsibilities to the Greater Wasatch County Community.
IN WITNESS WHEREOF, the undersigned Declarant has executed this Declaration the date and year first written above.

DECLARANT:

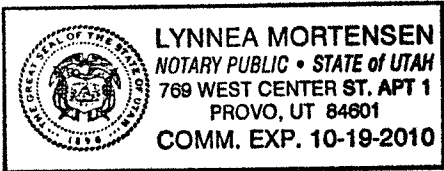
PRIME WEST JORDANELLE, L.L.C.

By: Nathan Welch

Its: Manager

On the 1 day of ~~May~~^{June} 2007, before me, a notary public, personally appeared

Nathan Welch, personally known to me to be the person whose name is subscribed to this instrument, and acknowledged that he executed the same.



Lynnea Mortensen
NOTARY PUBLIC

EXHIBIT A

ALL OF LOTS 1 THRU 71, TALISMAN SUBDIVISION, PHASE I, ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE IN THE OFFICE OF THE WASATCH COUNTY RECORDER, HEBER, UTAH.

A.P.N.: 0TF-1001, 0TF-1002, 0TF-1003, 0TF-1004, 0TF-1005, 0TF-1006, 0TF-1007, 0TF-1008, 0TF-1009, 0TF-1010, 0TF-1011, 0TF-1012, 0TF-1013, 0TF-1014, 0TF-1015, 0TF-1016, 0TF-1017, 0TF-1018, 0TF-1019, 0TF-1020, 0TF-1021, 0TF-1022, 0TF-1023, 0TF-1024, 0TF-1025, 0TF-1026, 0TF-1027, 0TF-1028, 0TF-1029, 0TF-1030, 0TF-1031, 0TF-1032, 0TF-1033, 0TF-1034, 0TF-1035, 0TF-1036, 0TF-1037, 0TF-1038, 0TF-1039, 0TF-1040, 0TF-1041, 0TF-1042, 0TF-1043, 0TF-1044, 0TF-1045, 0TF-1046, 0TF-1047, 0TF-1048, 0TF-1049, 0TF-1050, 0TF-1051, 0TF-1052, 0TF-1053, 0TF-1054, 0TF-1055, 0TF-1056, 0TF-1057, 0TF-1058, 0TF-1059, 0TF-1060, 0TF-1061, 0TF-1062, 0TF-1063, 0TF-1064, 0TF-1065, 0TF-1066, 0TF-1067, 0TF-1068, 0TF-1069, 0TF-1070, 0TF-1071

EXHIBIT B

LAND SUBJECT TO ANNEXATION

Any property may be annexed at the sole discretion of Declarant.

EXHIBIT C - INITIAL USE RESTRICTIONS

(a) **Animals and Pets.** No animals of any kind, including livestock and poultry, shall be raised, bred, or kept on any portion of the Community, except that for each Residence there shall be permitted a reasonable number of usual and common household pets, as determined in the Board's discretion. Pets shall not be permitted by their Owners to roam free, and any which are permitted to roam free, or, in the Association's sole discretion, endanger the health, make objectionable noise, or constitute a nuisance or inconvenience to other Owners or residents of any portion of the Community, shall be removed upon the Board's request at the Owner's expense. If the Owner fails to honor such request, the Board may cause the pet to be removed at the Owner's expense. No pets shall be kept, bred, or maintained on any home site for any commercial purpose.

(b) **Wildlife.** Capturing, killing, or trapping wildlife is prohibited within the Community, except in circumstances imposing an imminent threat to the safety of Persons or pets.

(c) **Firearms.** The discharge of firearms within the Community is prohibited except to the extent such discharge is confined within the facilities of a Private Amenity created for such purpose. The term firearm is defined to include B-B guns, pellet guns, and other firearms of all types, regardless of size.

(d) **Nuisances.** No Owner shall engage in any activity which constitutes a nuisance (meaning offensive or detrimental activity, as determined by the Board), which materially disturbs or destroys the vegetation, wildlife, or air quality within the Community, or which results in unreasonable levels of sound or light pollution.

(e) **Garages.** Garage doors shall remain closed at all times except when entering and exiting the garage.

(f) **Exterior Lighting.** All exterior lighting must conform to the requirements of the Design Guidelines. Excessive exterior lighting on any Lot is prohibited. The Board in its sole discretion shall determine whether any exterior lighting is excessive.

(g) **Storage of Goods.** Storage (except in approved structures or containers) of furniture, fixtures, appliances, machinery, equipment, or other goods and chattels on the Common Area (except by the Association), or, if not in active use, any portion of a Lot which is visible from outside the Lot is prohibited.

(h) **Prohibited Conditions.** The following conditions, structures, or activities are prohibited on any Lot:

(i) Dogs runs and animal pens of any kind, unless properly screened and approved in accordance with Article IV;

(ii) Shacks or other structures of a temporary nature on any Lot except as may be authorized by Declarant during the initial construction of improvements within the

Community. Temporary structures used during the construction or repair of a Residence or other improvements shall be removed immediately after the completion of construction or repair;

(iii) Except as expressly permitted pursuant to the Design Guidelines, permanent basketball goals, basketball standards, or backboards which are or would be visible from any street or Common Area; provided, portable basketball goals may be used on a Lot without prior approval, but must be stored so as not to be visible from any street or Common Area overnight or otherwise when not in use;

(iv) Except as expressly permitted pursuant to the Design Guidelines, freestanding flagpoles; provided, flags may be displayed using a bracket or other approved device mounted to the Residence so long as the size of the flag displayed does not exceed that of a standard United States flag (as determined in the Board's discretion and as may be set forth in a Board rule);

(v) Compost piles or containers and statues other than specifically approved by the ARC and .

(vi) Outside clotheslines or other outside facilities for drying or airing clothes.

In any event, and notwithstanding the above list of prohibited conditions, as set forth in Article IV, any structure, improvement, or thing proposed for construction, erection, installation, or placement on a Lot requires prior Reviewer approval unless otherwise specifically exempt under the Design Guidelines.

(i) Quiet Enjoyment. Nothing shall be done or maintained on any part of a Lot which emits foul or obnoxious odors outside the Lot or creates noise or other conditions which tend to disturb the peace, quiet, safety, comfort, or serenity of the occupants and invitees of other Lots.

No noxious, illegal, or offensive activity shall be carried on upon any portion of the Community, which in the Board's reasonable determination tends to cause embarrassment, discomfort, annoyance, or nuisance to others.

(j) Signs. No sign shall be erected within the Community except in accordance with the criteria set forth in the Design Guidelines. This restriction shall not apply to entry, directional, and marketing signs installed by Declarant or a Builder. The Association shall have the right to erect signs on the Common Area.

(k) Holiday Decorations. Owners may display holiday decorations located or visible from outside their Residences if the decorations are of the kinds normally displayed in single family residential Villages, are of reasonable size and scope, and do not disturb other Owners and residents by excessive light or sound emission or by causing an unreasonable amount of spectator traffic. Holiday decorations may be displayed in season only from November 1 to January 31 and, during other times of the year, from one week before to one week after any nationally recognized holiday.

(1) Antennas and Satellite Dishes. No antenna, satellite dish, or other device for the transmission or reception of television or radio (including amateur or ham radios) signals is permitted outside the Residence, except those devices whose installation and use is protected under federal law or regulations. Notwithstanding such protection, an application for such an antenna or other device must be submitted to the Architectural Review Committee for approval and approval will be granted only if:

(i) First, the antenna or other device is designed for minimal visual intrusion (i.e., is located in a manner that minimizes visibility from the street or an adjacent Lot and is consistent with the Community-Wide Standard); and

(ii) Second, the antenna or other device complies to the maximum extent feasible with the Design Guidelines within the confines of applicable federal regulations (i.e., without precluding reception of a quality signal or unreasonably increasing the cost of the antenna or device).

The Architectural Review Committee shall consider any such application on an expedited basis.

Notwithstanding the above, Declarant and/or the Association may erect an antenna, satellite dish, or other apparatus for a master antenna, cable, or other communication system for the benefit of all or a portion of Talisman, should any master system or systems be used by the Association and require such exterior apparatus.

(m) Trash Containers and Collection. No garbage or trash shall be placed or kept on any Lot, except in covered containers of a type, size and style which are pre-approved by the Architectural Review Committee or specifically permitted under the Design Guidelines, or as required by the applicable governing jurisdiction. Such containers shall be screened from view outside of the Lot except when they are being made available for collection and then only for the shortest time reasonably necessary to effect such collection. Rubbish, trash, and garbage must be removed from the Lots and may not accumulate on any Lot. Outdoor incinerators may not be kept or maintained on any Lot.

(n) Pool Equipment. All pool equipment stored on any Lot shall be screened from view from outside the Lot.

(o) Unsightly or Unkempt Conditions. All portions of a Lot outside enclosed structures shall be kept in a clean and tidy condition at all times. No rubbish or debris of any kind shall be placed or permitted to accumulate upon or adjacent to any Lot in a manner which is unsanitary, unsightly, offensive or detrimental to any other portion of the Community, as determined by the Board.

Woodpiles or other material shall be properly screened and stored in a such a manner so as not to attract rodents, snakes, and other animals and or create a fire hazard, as the Board determines. No activities shall be conducted upon or adjacent to any Lot or within any structure on a Lot which are or might be unsafe or hazardous to any Person or property. Open fires are prohibited within the Community, except in a contained outdoor fireplace or barbecue unit while attended

and in use for cooking purposes.

(p) **Vehicles and Parking.** As used in this Section, the term vehicles includes, without limitation, automobiles, trucks, boats, trailers, motorcycles, snowmobiles, campers, vans, and recreational vehicles.

No vehicle may be left upon any portion of the Community except in a garage, driveway, designated on street parking spaces or other area designated by the Board. No person shall park any recreational vehicles, mobile homes, trailers, campers, snowmobiles, boats or other watercraft, stored vehicles, and unlicensed vehicles or inoperable vehicles within the Community other than in enclosed garages. This Section shall not apply to emergency vehicle repairs.

(q) **Wetlands, Lakes, and Other Water Bodies.** Wetlands, lakes, ponds, and streams within the Community, if any, are aesthetic amenities only, and no active use of lakes, ponds, streams, or other bodies of water within the Community is permitted except for fishing in designated locations only. The Association shall not be responsible for any loss, damage, or injury to any person or property arising out of the authorized or unauthorized use of lakes, ponds, streams, or other bodies of water within or adjacent to the Community.

(r) **Solar Equipment.** No solar heating equipment or device is permitted outside the Residence except such devices whose installation and use is protected by federal or Utah law. Notwithstanding such protection, an application for such equipment or device must be submitted for approval under Article IV prior to installation and approval will be granted only if

(i) First, such equipment or device is designed for minimal visual intrusion when installed (i.e., is located in a manner which minimizes visibility from the street or an adjacent Lot and is consistent with the Community-Wide Standard); and

(ii) Second, the equipment or device complies to the maximum extent feasible with the Design Guidelines within the confines of the applicable governmental regulations.

EXHIBIT D - BYLAWS OF TALISMAN ASSOCIATION

(See Accompanying Association Bylaws Document)

EXHIBIT E - TALISMAN DEVELOPMENT AGREEMENT

Summary of Talisman Association Obligations

The following provisions describing certain obligations of the Talisman Community and certain duties of the Association and Owners are summarized from the Development Agreement for the Talisman Specially Planned Area dated as of May 10th, 2007. The final Development Agreement should be considered in its entirety.

TALISMAN
DEVELOPMENT AGREEMENT

Ent 320095 # 240 5-43
Date: 14-MAY-2007 12:51PM
Fee: \$64.00 Check Filed By: NC
ELIZABETH PALMIER, Recorder
WASATCH COUNTY CORPORATION
For: PRIME WEST JORDANELLE LLC

-0000-

This DEVELOPMENT AGREEMENT (the "Agreement") is entered into as of this ^{10th} day of May, 2007, by and between Prime West Jordanelle, a Utah limited liability company (hereinafter called "Developer"), and Wasatch County, a political subdivision of the State of Utah (hereinafter called the "County"). Developer and the County are hereinafter referred to individually as a "Party" and collectively as the "Parties." This Agreement supersedes and replaces any previous agreements entered into or representations made by and between Developer and the County involving the Property (defined below).

RECITALS

- A. The County, acting pursuant to its authority under Utah Code Ann. Section 17-27a-101, et seq., and Section 17-53-223, and Section 17-53-302(13), as amended, and in furtherance of its land use policies, goals, objectives, ordinances, and regulations, in the exercise of its discretion, has elected to approve and enter into this Agreement.
- B. Developer has a legal interest in certain real property consisting of approximately 1438 acres located in the unincorporated portion of the County, as described in Exhibit A attached hereto.
- C. Developer has requested approval to develop the real property described in Exhibit A, to be known as Talisman, in accordance with the Jordanelle Basin Area 'C' Land Use Plan as previously approved or as further amended. Currently the developer has received final approval for Talisman Phase One, Unit One consisting of 71 lots. This development is more particularly described in a Plat on file with the Wasatch County Recorder, which Plat is incorporated by reference herein.
- D. The County desires to enter into this Agreement because the Agreement establishes planning principles, standards, and procedures to: (1) eliminate uncertainty in planning and guide the orderly development of the Property consistent with the County General Plan, the County land use Code, and the conditions imposed by the Planning Commission and County Legislative Body; (2) mitigate significant environmental impacts; (3) ensure installation of necessary on-site and off-site public improvements; (4) provide for the preservation of substantial permanent open space; (5) make provision for trail facilities; (6) provide for the timely payment of all fees and charges, including impact fees in the amounts set forth herein; (7) ensure that public services appropriate to the development of the Property are provided; (8) provide affordable housing; (9) provide for the maintenance of facilities, trails and open space within the development during construction and after completion; and (10) otherwise achieve the goals and purposes of the County and Developer.

- E. Developer desires to enter into this Agreement to ensure that Developer may proceed with the Project in accordance with the "Applicable Law" (defined below).
- F. The County has undertaken review and planning actions relating to the development of the Property and the Project. These actions are set forth in the official minutes and record of the County Planning Commission and the County Legislative Body. A condition of final approval of the Project is that Developer enter into and abide by the terms of this Agreement. The terms of this Agreement apply to the Project, and to any and all phases or plats therein. These various review and planning actions are collectively referred to herein as the "Current Approvals."
- G. On November 9, 2006, following a duly noticed public hearing, the County Planning Commission granted final conditional approval to Developer for Phase I, subject to Developer entering into this Agreement and satisfying the conditions imposed.
- H. By developing the Project in accordance with this Agreement, the Project shall be in compliance with the Wasatch County General Plan and all development ordinances, resolutions, rules, regulations, policies, standards, and directives of the County.
- I. Each Party acknowledges that it is entering into this Agreement voluntarily.

NOW, THEREFORE, in consideration of the mutual promises, covenants, and provisions set forth herein, the receipt and adequacy of which are hereby acknowledged, the Parties agree as follows:

AGREEMENT

Section 1. EFFECTIVE DATE AND TERM

1.1 Effective Date.

This Agreement shall become effective on the date it is executed by Developer and the County (the "Effective Date"). The Effective Date shall be inserted in the introductory paragraph preceding the Recitals.

1.2 Term.

The term of this Agreement (the "Term") shall commence upon the Effective Date and continue for a period of twenty-five (25) years. Unless otherwise agreed between the County and Developer, Developer's vested interest(s) and right(s) contained in this Agreement expire at the end of the Term, or upon termination of this Agreement.

Upon termination of this Agreement, for any reason, the obligations of the Parties to each other hereunder shall terminate, but none of the licenses, building permits, or certificates of occupancy granted prior to expiration of the Term or termination of this Agreement shall be rescinded or limited in any manner. Furthermore all easement, maintenance requirements or

other agreements intended to run with the land shall survive the termination or expiration of this agreement.

Section 2. DEFINITIONS

Est 320095 B 0940 P1 0007

Any term or phrase used in this Agreement that has its first letter capitalized shall have that meaning given to it in this section.

"Applicable Law" shall have that meaning set forth in Section 4.2 of this Agreement.

"Approval Date" shall mean the date set forth in Recital G of this Agreement.

"Changes in the Law" shall have that meaning set forth in Section 4.2 of this Agreement.

"Conditions to Current Approvals" shall have the meaning set forth in Section 3.1(b) of this Agreement.

"County" shall mean Wasatch County and shall include, unless otherwise provided, any and all of the County's agencies, departments, officials, employees or agents.

"County General Plan" or "General Plan" shall mean the General Plan of Wasatch County, adopted December 10, 2001, and the Jordanelle Basin Area 'C' Land Use Plan dated October 3, 1997 as well as any and all amendments thereto..

"Current Approvals" shall have the meaning set forth in Recital F of this Agreement.

"Developer" shall have that meaning set forth in the preamble, and shall include Developer's successors in interest and assigns.

"Director" shall mean the Director of the Wasatch County Planning Department, or his or her designee.

"Effective Date " shall have that meaning set forth in Section 1.1 of this Agreement.

"Home Owners' Association" means the Talisman Home Owners' Association, a non-profit corporation formed in accordance with the state and federal law and authorized to impose fees sufficient to perform the maintenance obligations transferred to it by Developer.

"Planning Commission" shall mean the Wasatch County Planning Commission.

"Project" shall mean the Property and the development on the Property which is the subject of this Agreement, including all phases or plats regularly approved by the County and any ancillary and additional improvements or endeavors incident to the development of the Project.

"Project Improvements" shall mean all infrastructure improvements intended for public or private use and located within the boundaries of the Project, including but not limited to sewer

lines, water lines, roads, electricity, gas, telephone, detention basins, curb and gutter, trails, recreational facilities, and open space.

Ent 320095 Bk 0940 Pg 0008

"Property" shall mean the parcel or parcels of land which are the subject of this Agreement and which are more particularly described in Exhibit A.

Section 3. OBLIGATIONS OF DEVELOPER AND THE COUNTY

3.1 Obligations of Developer.

(a) Generally. The Parties acknowledge and agree that the County's agreement to perform and abide by the covenants and obligations of the County set forth herein is material consideration for Developer's agreement to perform and abide by the covenants and obligations of Developer set forth herein.

(b) Conditions to Current Approvals. Developer shall comply with all of the following Conditions to Current Approvals:

- (1) Compliance With Conditions Imposed By County: Developer agrees to comply with any and all conditions imposed by the Planning Commission or the County Legislative Body during the permitting and approval process as set forth in the official minutes of the County Planning Commission and County Legislative Body.
- (2) Payment of Administrative Fees: Developer agrees to pay all generally applicable Wasatch County fees as a condition of developing the Property and Project.
- (3) Payment of Impact Fees: Wasatch County has enacted an impact fee ordinance. Subject to adjustments approved by the Director and/or the County Legislative Body, Developer agrees to pay the Wasatch County impact fees due and payable in connection with any structure built by Developer, or Developer's agent, employee, contractor, or subcontractor.
- (4) Affordable Housing: To comply with the County Affordable Housing Ordinance, Developer will enter into and agree to be bound by a separate Affordable Housing Agreement, dated as of the Effective Date of this Agreement and recorded in the office of the Wasatch County Recorder. The Affordable Housing Agreement shall be entered into within 60 days of the Effective Date of this Agreement and shall be in a form substantially similar to that attached hereto as Exhibit B.
- (5) Special Service District Fees, and Charges: The following services will be provided to the Project by special service districts, each of which has issued to Developer a "will serve" letter, copies of which are attached hereto as Exhibit C and incorporated by reference herein:

Ent 320095 Bk 0940 Pg 0009

Service	Entity Providing Service
Culinary Water	Jordanelle Special Services District
Irrigation Water	Jordanelle Special Services District
Trash Removal	Wasatch County Solid Waste Special Service District
Sanitary Sewer	Jordanelle Special Services District
Storm sewer	Talisman Homeowners Association/Wasatch County Public Works Department

Developer agrees to pay any and all fees imposed by the District in connection with development of the Project, including (but not limited to) fees for plan check and engineering review.

- (6) **Construction of Project Improvements:** All Project Improvements within each phase of the Project shall be inspected and accepted by the County in writing prior to the issuance of any building permit within that phase.
- (7) **Phasing:** Unless otherwise stated herein, Developer may in his or her discretion develop the Project in phases. In developing each phase, Developer shall ensure the logical extension of the Project Improvements through each phase and throughout the Project, all in conformance with the requirements of this Agreement, the Applicable Law, and the requirements imposed by the County Planning Commission and County Legislative Body.
- (8) **Construction and Maintenance of Recreational Facilities:** Developer shall construct certain recreational facilities in conjunction with the Project in accordance with the following schedule:

Recreational Facility	Date of Substantial Completion
18 hole golf course as shown Exhibit D	October 2008.

Developer shall maintain the above described recreation facilities in all respects. This obligation may be transferred to the Home Owner's Association, golf club or other ownership entity approved by the County. Maintenance shall meet or exceed a standard of reasonableness and safety as established by the County. In the event Developer (or other approved entity) fails to maintain the recreational facilities, the County may (but is not obligated to) maintain them. The market value of the cost of this maintenance is hereby agreed to and shall constitute a valid lien on the golf course property (if owned separately from the Home Owners Association) or Property and its lots (if owned by the Home Owners Association, and such lien shall be on a parity with and collected at the same time and in the same manner as general County taxes that are a lien on the property.

Ent 320095 Bk 0940 Pg 0010

- (9) **Garbage Pickup:** Wasatch County Solid Waste Special Service District will provide trash pickup and disposal for the project. However, district garbage trucks will not go into private roads to pickup trash. Developer must provide internal trash collection system and a location for bulk district containers as approved by the Wasatch County Solid Waste Special Service District for district garbage pickup in accordance with district rules and policies.
- (10) **Maintenance of Open Space and Trails:** Developer agrees to provide open space and trails as part of the development as required County Ordinances. As determined in the approval process, amenities such as a golf course, ski area and other recreational facilities may qualify as open space. All open space must be delineated as open space on the recorded plats, must be deeded to the Home Owners Association or other perpetual entity, and must be subject to an easement in favor of the County prohibiting any development of such open space other than open space compatible uses as approved by the County. Developer also agrees to provide public trails as approved by the Wasatch County trail planner. Said trails shall be shown on applicable plats and dedicated to the County for perpetual public use. Developer shall be responsible to maintain the open space and trails in all respects, including but not limited landscaping, irrigation, and weed control. This obligation shall be transferred by written agreement to the Home Owners' Association, private golf club or other perpetual entity approved by the County. Maintenance shall meet or exceed a standard of reasonableness and safety as established by the County. In the event Developer or Home Owners Association (or other entity) fails to maintain the open space and trails, the County may (but is not obligated to) maintain them. The market value of the cost of this maintenance is hereby agreed to and shall constitute a valid lien on the Property and its lots on a parity with and collected at the same time and in the same manner as general County taxes that are a lien on the Property.
- (11) **Golf Course:** For any golf course constructed as part of the development Developer or other approved owner shall provide an annual water quality report which meets the standards set forth in and is in accordance with the approved golf course Nutrient Management Plan dated July 19, 2006 on file with the County Planning Office, and any other revision or amendments to this plan as approved by the County. If the golf course is owned by the Home Owners Association, then its assessed value for purposes of property taxes shall be reflected in the individual lots within the development. However, if it is owned by an entity other than the Home Owners Association, then its value will not be reflected in the individual lots in the development, but its value will instead be assessed as a privately owned and operated golf course.
- (12) **Architectural Guidelines and Landscape Plan:** Developer shall prepare and submit to County, as part of the approval process, architectural guidelines which, once approved shall set forth requirements for all building construction within the project. Developer shall also prepare and submit site

specific landscape plans for common areas within the project as well as landscape guidelines which, once approved, shall set forth landscaping requirements for individual lots. The parties shall by addendum make such guidelines and plans part of this agreement.

PL 20095 Bk 0940 P1 0011

(13) **Ridgeline Viewshed Analysis:** The project has provided a viewshed analysis for the first phase of the project and determined that no structures in this phase will protrude above a ridgeline. If any structure does protrude above a ridgeline the proposal must go through a conditional use process as outlined in 16.27.21(2005 code).

(14) **Bonding:**

- a. **Performance Bonds and Warranty Bonds.** Developer shall post performance and warranty bonds in relation to the Project. The bonds shall conform to the requirements of section 16.27.20 of the Wasatch County Code.
- b. **Maintenance Bonds.** Developer shall post a bond of either cash or an irrevocable letter of credit on a form approved by the County in an amount equal to the annual maintenance expense for open space, trails, and recreational facilities within the Project. If Developer transfers these obligations by written agreement to the Home Owners' Association, the County may waive the maintenance bond requirement for that portion of the Project under the Home Owners' Association's jurisdiction, subject to the County being provided with evidence of the Association's financial ability to maintain the open space, trails, and recreational facilities.

3.2 Obligations of the County.

(a) **Generally.** The Parties acknowledge and agree that Developer's agreement to perform and abide by the covenants and obligations of Developer set forth herein is material consideration for the County's agreement to perform and abide by the covenants and obligations of the County set forth herein.

(b) **Conditions to Current Approvals.** The County shall not impose any further Conditions to Current Approvals other than those detailed in this Agreement and in the official minutes of the County Planning Commission and County Legislative Body, unless agreed to in writing by the Parties.

(c) **Acceptance of Project Improvements.** The County agrees to accept all Project improvements intended for public use and constructed by Developer, or Developer's contractors, subcontractors, agents or employees, provided that (1) the Wasatch County Building and Engineering Department reviews and approves the plans for any Project improvements prior to

construction; (2) Developer permits Wasatch County Building and Engineering representatives to inspect upon request any and all of said Project improvements during the course of construction; (3) the Project improvements have been inspected by a licensed engineer who certifies that the Project improvements have been constructed in accordance with the plans and specifications; (4) Developer has warranted the Project improvements as required by the Wasatch County Building and Engineering Department; and (5) the Project improvements pass a final inspection by the Wasatch County Building and Engineering Department. In the case of open space, landscaping, and public trails, the Planning Department will perform the reviews, approvals, and inspections described above. Est 320095 Bk 0940 Pg 0012

(d) Additional Obligations of the County.

1. **Road Maintenance:** The Development shall contain both public and private roads as approved through the planning process. All plats recorded as part of the development shall clearly delineate which roads are public and which are private. Maintenance for the roads shall be as follows:

A. **Public Roads:** After the roads have been constructed in accordance with County standards and the County has accepted them, the roads shall be Class B roads and shall be placed on the County Class B road map. The County shall maintain the roads, providing the same level of service provided to other Class B roads in the County. The priority and method of maintenance shall be determined in the sole discretion of the County

B. **Private Roads:** Private roads shall be maintained in all respects by the Developer or the Home Owners Association after approval by the County of a written transfer agreement. Maintenance shall meet or exceed the standard required of County roads.

2. **Snow Removal:** The Developer and, upon approved written transfer, the Homeowners Association shall provide snow removal on the private roads in the project and the County shall provide snow removal for public roads in the project. For those roads which are public, the County shall provide the same level of service provided to other Class B roads in the County. The priority and method of snow-removal shall be determined in the sole discretion of the County.

3. **Detention Ponds:** The Developer and, upon approved written transfer, the Homeowners Association shall maintain all storm drainage facilities within the project. The minimum inspection and maintenance to be provided by the developer/Home Owner's Association shall be as follows:

Inspection: Inspect detention pond for erosion and any changes after every major storm event but at least monthly. Inspect embankments for any visible signs of erosion, seepage, sloughing, sliding, or other instability. Inspect outlet structures for flow obstructions, cracks, vandalism, or erosion.

Regular maintenance

- Proceed with corrective measures for observed problems immediately or as soon as weather conditions permit
- Mow grass as required. Remove undesirable vegetation such as trees, bushes, and vines from embankments and pond area.
- Fill all eroded gullies and vehicle ruts and compact soil. Backfill any hollow spots under concrete spillways or outlet structures and compact soil. Replace any riprap that has washed away from spillways and pipe outlets. Determine the cause of any slides or sloughs and repair. Take corrective action to prevent future recurrence.
- Remove all trash, debris, tree limbs, or other flow obstructions from detention pond, outlet structures, and pipes. Fill all animal burrows and compact soil. Repair vandalism. Maintain pond and outlet structures in good working order.
- Do not use pesticides, herbicides, or fertilizers in or around the detention pond. These products will leach from the pond and pollute streams and river.
- Make sure that the detention pond is draining properly. Detention ponds are designed to release storm water slowly not hold the water permanently. Improperly maintained ponds can harbor breeding areas for mosquitos and reduce the storage volume of the pond.
- Do not place yard waste such as leaves, grass clippings or brush in ponds.

Est 320095 Bk 0940 Pl 0013

Annual Maintenance

Remove vegetation from any cracks in concrete spillways or outlet structures and seal with mastic joint filler. Lubricate and test moving parts on gates, valves, etc. Repaint metal parts to prevent rust. Replace badly rusted parts. Remove any accumulated sediment to restore pond to design volume. Reseed with County approved seed mix as necessary to maintain good vegetative cover on exterior of embankments.

Section 4. VESTED RIGHTS AND APPLICABLE LAW**4.1 Vested Rights.**

(a) **Generally.** As of the Effective Date of this Agreement, Developer shall have the vested right to develop the Property in accordance with this Agreement and Applicable Law.

(b) **Reserved Legislative Powers.** Nothing in this Agreement shall limit the future exercise of the police power by the County in enacting zoning, subdivision, development, transportation, environmental, open space, and related land use plans, policies, ordinances and regulations after the date of this Agreement. Notwithstanding the retained power of the County to enact such legislation under its police power, such legislation shall not modify Developer's vested right as set forth herein unless facts and circumstances are present which meet the exceptions to the vested rights doctrine as set forth in Western Land Equities, Inc. v. City of Logan, 617 P.2d 388 (Utah, 1988), its progeny, or any other exception to the doctrine of vested rights recognized under state or federal law.

4.2 Applicable Law.

(a) **Applicable Law.** Unless otherwise provided herein, the rules, regulations, official policies, standards and specifications applicable to the development of the Property (the

"Applicable Law") shall be those rules, regulations, official policies, standards and specifications, including County ordinances and resolutions, in force and effect on the date the County Legislative Body granted preliminary approval to Developer. However, notwithstanding the foregoing, any person applying for a building permit within the Project shall be subject to the building, electrical, mechanical, plumbing, and fire codes, and other County ordinances relating to the placement and construction of the proposed structure, that are in effect at the time the person files with the County a completed application for building permit.

Est 320095 #: 0940 P: 0014

(b) State and Federal Law. Notwithstanding any other provision of this Agreement, this Agreement shall not preclude the application of changes in laws, regulations, plans or policies, to the extent that such changes are specifically mandated and required by changes in state or federal laws or regulations ("Changes in the Law") applicable to the Property. In the event the Changes in the Law prevent or preclude compliance with one or more provisions of this Agreement, such provisions of the Agreement shall be modified or suspended, or performance thereof delayed, as may be necessary, to comply with the Changes in the Law.

Section 5. AMENDMENT

5.1 Amendments Generally. Unless otherwise stated in this Agreement, the Parties may amend this Agreement by mutual written consent. No amendment or modification to this Agreement shall require the consent or approval of any person or entity having any interest in any specific lot, unit or other portion of the Project.

Section 6. DEFAULT; TERMINATION; ANNUAL REVIEW

6.1 General Provisions.

(a) Defaults. Any failure by either Party to perform any term or provision of this Agreement, which failure continues uncured for a period of thirty (30) days following written notice of such failure from the other Party, unless such period is extended by written mutual consent, shall constitute a default under this Agreement. Any notice given pursuant to the preceding sentence shall specify the nature of the alleged failure and, where appropriate, the manner in which said failure satisfactorily may be cured. If the nature of the alleged failure is such that it cannot reasonably be cured within such 30-day period, then the commencement of the cure within such time period, and the diligent prosecution to completion of the cure thereafter, shall be deemed to be a cure within such 30-day period. Upon the occurrence of an uncured default under this Agreement, the non-defaulting Party may institute legal proceedings to enforce the terms of this Agreement or, in the event of a material default, terminate this Agreement. If the default is cured, then no default shall exist and the noticing Party shall take no further action.

(b) Termination. If the County elects to consider terminating this Agreement due to a material default of Developer, then the County shall give to Developer a written notice of intent to terminate this Agreement and the matter shall be scheduled for consideration and review by the County Legislative Body at a duly noticed public meeting. Developer shall have the right to

offer written and oral evidence prior to or at the time of said public meeting. If the County Legislative Body determines that a material default has occurred and is continuing and elects to terminate this Agreement, the County Legislative Body shall send written notice of termination of this Agreement to Developer by certified mail and this Agreement shall thereby be terminated. The County may thereafter pursue any and all remedies at law or equity.

6.2 Review by County

Ent 320095 Bk 0940 Pg 0015

(a) **Generally.** The County may at any time and in its sole discretion request that Developer demonstrate that Developer is in full compliance with the terms and conditions of this Agreement. Developer shall provide any and all information reasonably necessary to demonstrate compliance with this Agreement as requested by the County within thirty (30) days of the request, or at a later date as agreed between the Parties.

(b) **Determination of Non-Compliance.** If the County Legislative Body finds and determines that Developer has not complied with the terms of this Agreement, and noncompliance may amount to a default if not cured, then the County may deliver a Default Notice pursuant to Section 6.1(a) of this Agreement. If the default is not cured timely by Developer, the County may terminate this Agreement as provided in Section 6.1(b) of this Agreement.

(c) **Notice of Compliance.** Within fifteen (15) days following any written request which Developer may make from time to time, the County shall execute and deliver to Developer a written "Notice of Compliance," in recordable form, duly executed and acknowledged by the County, certifying that: (i) this Agreement is unmodified and in full force and effect, or if there have been modifications hereto, that this Agreement is in full force and effect as modified and stating the date and nature of such modification; (ii) there are no current uncured defaults under this Agreement or specifying the dates and nature of any such default; and (iii) any other reasonable information requested by Developer. Developer shall be permitted to record the Notice of Compliance.

6.3 Default by the County.

In the event the County defaults under the terms of this Agreement, Developer shall have all rights and remedies provided in Section 6.1 of this Agreement and provided under Applicable Law.

6.4 Enforced Delay: Extension of Time of Performance.

Notwithstanding anything to the contrary contained herein, neither Party shall be deemed to be in default where delays in performance or failures to perform are due to, and a necessary outcome of, war, insurrection, terrorist acts, strikes or other labor disturbances, walk-outs, riots, floods, earthquakes, fires, casualties, acts of God, restrictions imposed or mandated by other governmental entities, enactment of conflicting state or federal laws or regulations, new or supplemental environmental regulations, or similar basis for excused performance which is not within the reasonable control of the Party to be excused. Upon the request of either Party hereto,

an extension of time for such cause shall be granted in writing for the period of the enforced delay, or longer as may be mutually agreed upon.

Ent 320095 Bk 0940 Pg 0016

6.5 Annual Review.

Developer and the County shall (at the discretion of the County) meet annually to review the status of the Project and to review compliance with the terms and conditions of this Agreement.

Section 7. DEFENSE AND INDEMNITY

7.1 Developer's Actions.

Developer shall defend, hold harmless, and indemnify the County and its elected and appointed officers, agents, employees, and representatives from any and all claims, costs, judgments and liabilities (including inverse condemnation) which arise directly or indirectly from the County's approval of the Project, construction of the Project, or operations performed under this Agreement by (a) Developer or by Developer's contractors, subcontractors, agents or employees, or (b) any one or more persons directly or indirectly employed by, or acting as agent for, Developer or any of Developer's contractors or subcontractors.

7.2 Hazardous, Toxic, and/or Contaminating Materials. Developer further agrees to defend and hold harmless the County and its elected and/or appointed boards, officers, employees, and agents from any and all claims, liabilities, damages, costs, fines, penalties and/or charges of any kind whatsoever relating to the existence of hazardous, toxic and/or contaminating materials on the Project solely to the extent caused by the intentional or negligent acts of Developer, or Developer's officers, contractors, subcontractors, employees, or agents.

7.3 County's Actions.

Nothing in this Agreement shall be construed to mean that Developer shall defend, indemnify, or hold the County or its elected and appointed representatives, officers, agents and employees harmless from any claims of personal injury, death or property damage or other liabilities arising from (i) the willful misconduct or negligent acts or omissions of the County, or its boards, officers, agents, or employees; and/or (ii) the negligent maintenance or repair by the County of improvements that have been offered for dedication and accepted by the County for maintenance.

Section 8. TRANSFER OF MAINTENANCE OBLIGATIONS.

8.1 Creation of Home Owners' Association. It is anticipated that Developer will transfer certain maintenance obligations to the Home Owners' Association. The Association shall be a non-profit corporation formed in accordance with the state and federal law. The Association shall have authority to impose fees sufficient to perform the maintenance obligations transferred to it.

8.2 Written Transfer Agreement Required. In the event Developer transfers Developer's maintenance obligations to the Home Owners' Association, Developer shall do so by written transfer agreement approved by the County.

Ent 320095 Bk 0940 Pg 0017

Section 9. INSURANCE CERTIFICATES.

9.1 Insurance Certificates. Prior to beginning construction on the Project, Developer shall furnish to the County certificates of general liability insurance indicating that the County has been added as an additional named insured with respect to construction of infrastructure, project improvements, and recreational facilities within the Project. Until such time as the Project Improvements described in Section 3.1(b) of this Agreement are completed and approved by the County, such insurance coverage shall not terminate or be canceled or the coverage reduced until after thirty (30) days' written notice is given to the County.

Section 10. NO AGENCY, JOINT VENTURE OR PARTNERSHIP

It is specifically understood and agreed to by and between the Parties that: (1) the subject Project is a private development; (2) the County has no interest or responsibilities for, or due to, third parties concerning any improvements until such time, and only until such time, that the County accepts the same pursuant to the provisions of this Agreement; (3) Developer shall have full power over and exclusive control of the Property and Project herein described, subject only to the limitations and obligations of Developer under this Agreement; and (4) the County and Developer hereby renounce the existence of any form of agency relationship, joint venture or partnership express or implied between the County and Developer and agree that nothing contained herein or in any document executed in connection herewith shall be construed as creating any such relationship between the County and Developer.

Section 11. MISCELLANEOUS

11.1 Incorporation of Recitals and Introductory Paragraph. The Recitals contained in this Agreement, and the introductory paragraph preceding the Recitals, are hereby incorporated into this Agreement as if fully set forth herein.

11.2 Subjection and Subordination. Each person or entity that holds any beneficial, equitable, or other interest or encumbrances in all or any portion of the Project at any time hereby automatically, and without the need for any further documentation or consent, subjects and subordinates such interests and encumbrances to this Agreement and all amendments thereof that otherwise comply with this Section 5. Each such person or entity agrees to provide written evidence of that subjection and subordination within 15 days following a written request for the same from, and in a form reasonably satisfactory to the County.

11.3 Severability. If any term or provision of this Agreement, or the application of any term or provision of this Agreement to a particular situation, is held by a court of competent

jurisdiction to be invalid, void or unenforceable, the remaining terms and provisions of this Agreement, or the application of this Agreement to other situations, shall continue in full force and effect unless amended or modified by mutual consent of the Parties.

Est 320095 # 0940 # 0018

11.4 Other Necessary Acts. Each Party shall execute and deliver to the other any further instruments and documents as may be reasonably necessary to carry out the objectives and intent of this Agreement.

11.5 Construction. This Agreement has been reviewed and revised by legal counsel for both the County and Developer, and no presumption or rule that ambiguities shall be construed against the drafting Party shall apply to the interpretation or enforcement of this Agreement.

11.6 Other Miscellaneous Terms. The singular shall include the plural; the masculine gender shall include the feminine; "shall" is mandatory; "may" is permissive.

11.7 Covenants Running with the Land.

The provisions of this Agreement shall constitute real covenants, contract and property rights, and equitable servitudes, which shall run with all of the land subject to this Agreement. The burdens and benefits of this Agreement shall bind and inure to the benefit of each of the Parties, and to their respective successors, heirs, assigns, and transferees. Notwithstanding anything in this Agreement to the contrary, the owners of individual units or lots in the Project shall (1) only be subject to the burdens of this Agreement to the extent applicable to their particular unit or lot; and (2) have no right to bring any action under this Agreement as a third-party beneficiary or otherwise.

11.8 Method of Enforcement.

The County may look to Developer, the Home Owners' Association, or collectively to each lot or unit owners in the Project for performance of the provisions of this Agreement relative to the portions of the Project owned or controlled by such party. Any cost incurred by the County to secure performance of the provisions of this Agreement shall constitute a valid lien on the Project, including prorated portions to individual lots or units in the Project, on a parity with and collected at the same time and in the same manner as general County taxes and assessments that are a lien on the Project. The County may pursue any remedies available at law or in equity, including the withholding of building permits or certificates of occupancy, to ensure compliance with this Agreement.

11.9 Waiver. No action taken by any Party shall be deemed to constitute a waiver of compliance by such Party with respect to any representation, warranty, or condition contained in this Agreement. Any waiver by any Party of a breach of any provision of this Agreement shall not operate or be construed as a waiver by such Party of any subsequent breach.

11.10 Remedies. Either Party may, in addition to any other rights or remedies, institute an equitable action to cure, correct, or remedy any default, enforce any covenant or agreement herein, enjoin any threatened or attempted violation thereof, enforce by specific performance the

obligations and rights of the Parties hereto, or to obtain any remedies consistent with the foregoing and the purpose of this Agreement.

Ent 320095 Bk 0940 Pg 0019

11.11 Utah Law. This Agreement shall be construed and enforced in accordance with the laws of the State of Utah.

11.12 Covenant of Good Faith and Fair Dealing. Each Party shall use its best efforts and take and employ all necessary actions in good faith consistent with this Agreement and Applicable Law to ensure that the rights secured by the other Party through this Agreement can be enjoyed.

11.13 Requests to Modify Use Restrictions. Developer's successors, heirs, assigns, and transferees shall have the right, without the consent or approval of any other person or entity owning property in any other part of the Project, to request that the County modify any zoning classification, use, density, design, setback, size, height, open space, road design, road dedication, traffic configuration, site plan, or other use restrictions associated with that portion of the Project to which the successor, heir, assign, or transferee holds title. The County shall consider any such request, but is not required to grant it.

11.14 Representations. Each Party hereby represents and warrants to each other Party that the following statements are true, complete and not misleading as regards the representing warranting Party:

- (a) Such Party is duly organized, validly existing and in good standing under the laws of the state of its organization.
- (b) Such Party has full authority to enter into this Agreement and to perform all of its obligations hereunder. The individual(s) executing this Agreement on behalf of such Party do so with the full authority of the Party that those individual(s) represent.
- (c) This Agreement constitutes the legal, valid and binding obligation of such Party enforceable in accordance with its terms, subject to the rules of bankruptcy, moratorium and equitable principles.

11.15 No Third-Party Beneficiaries. This Agreement is between the County and Developer. No other party shall be deemed a third-party beneficiary or have any rights under this Agreement.

Section 12. NOTICES

Any notice or communication required hereunder between the County and Developer must be in writing, and may be given either personally or by registered or certified mail, return receipt requested. If given by registered or certified mail, such notice or communication shall be deemed to have been given and received on the first to occur of (i) actual receipt by any of the addressees designated below as the Party to whom notices are to be sent, or (ii) five (5) days after a registered or certified letter containing such notice, properly addressed, with postage prepaid, is deposited in the United States mail. If personally delivered, a notice shall be deemed to have been given when delivered to the Party to whom it is addressed. Any Party may at any

time, by giving ten (10) days written notice to the other Party, designate any other address to which notices or communications shall be given. Such notices or communications shall be given to the Parties at their addresses set forth below:

Int 320095 Bk 0940 Pg 0020

If to the County:

AL MICKELSEN
Director
Wasatch County Administration Building
188 South Main Street
Heber City, UT 84032

With Copies to:

THOMAS L. LOW
Wasatch County Attorney
805 West 100 South
Heber City, UT 84032

If to Developer:

STEPHEN F. PATTERSON
Manager
Prime West Jordanelle, LLC
3940 E. Fairbrook Circle
Mesa, Arizona 85205

With Copies to:

GREGORY R. KNIGHT
Law office of Gregory R. Knight & Associates, P.C.
1733 N. Greenfield Road, Suite 103
Mesa, Arizona 85205

Section 13. ENTIRE AGREEMENT, COUNTERPARTS AND EXHIBITS

Unless otherwise noted herein, this Agreement is the final and exclusive understanding and agreement of the Parties and supersedes all negotiations or previous agreements between the Parties with respect to all or any part of the subject matter hereof. All waivers of the provisions of this Agreement shall be in writing and signed by the appropriate authorities of the County and Developer. The following exhibits are attached to this Agreement and incorporated herein for all purposes:

Exhibit A - Legal Description of the Property

Exhibit B - Affordable Housing Agreement

Exhibit C - Will Serve Letters Ent 320095 Bk 0940 Pg 0021

Exhibit D - Open Space Easement for Phase I/ Private Golf Course

Section 14. RECORDATION OF DEVELOPMENT AGREEMENT

No later than ten (10) days after the County enters into this Agreement, the County Clerk shall cause to be recorded, at Developer's expense, an executed copy of this Agreement in the Official Records of the County of Wasatch.

IN WITNESS WHEREOF, this Agreement has been entered into by and between Developer and the County as of the date and year first above written.

WASATCH COUNTY:

Ent 320095 Bk 0940 Pg 0022

Attest:

[Signature]
Wasatch County Manager

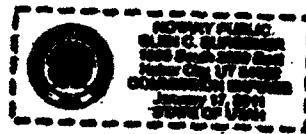
BRENT TITCOMB,
Wasatch County Clerk Auditor

STATE OF UTAH)
) ss:
COUNTY OF WASATCH)

The foregoing instrument was acknowledged before me this 11 day of May, 2007, by Michael Davis who executed the foregoing instrument in his capacity as the Wasatch County Manager and by Brent Titcomb, who executed the foregoing instrument in his capacity as the Wasatch County Clerk Auditor.

[Signature]
NOTARY PUBLIC
Residing at: Haber, UT

My Commission Expires:
1/19/2011



PRIME WEST JORDANELLE, LLC

Est 320095 & 0940 by 0023

By: Stephen F. Patterson

Stephen F. Patterson
Member

STATE OF UTAH)
COUNTY OF Wasatch :SS

The foregoing instrument was acknowledged before me this 10th day of May, 2007, by Stephen F. Patterson, who executed the foregoing instrument in his capacity as the Member of Developer, a Utah L.L.C.



Marcia D. McGuire
NOTARY PUBLIC
Residing at: Wasatch County

My Commission Expires:
5/12/07

Est 320095 Bk 0940 Pg 0024

EXHIBIT A

TALISMAN DEVELOPMENT AGREEMENT

[Legal Description of Property - see attached]

Ent 320095 Bk 0940 Pg 0025

BOUNDARY DESCRIPTION

A PARCEL OF LAND LOCATED IN WASATCH COUNTY, UTAH MORE PARTICULARLY DESCRIBED AS:

BEGINNING AT THE NORTHEAST CORNER OF SECTION 2, TOWNSHIP 3 SOUTH, RANGE 5 EAST, SALT LAKE BASE AND MERIDIAN; THENCE SOUTH 00°15'40" WEST ALONG THE SECTION LINE 5806.15 FEET TO THE SOUTHEAST CORNER OF SAID SECTION 2; THENCE SOUTH 00°01'28" EAST ALONG THE SECTION LINE 1660.00 FEET; THENCE NORTH 89°55'22" WEST 5263.65 FEET TO A FENCE LINE; THENCE SOUTH 00°06'20" EAST ALONG SAID FENCE LINE 976.68 FEET TO A FENCE LINE; THENCE SOUTH 88°34'00" WEST ALONG SAID FENCE LINE 1311.23 FEET TO A FENCE LINE; THENCE SOUTH 00°08'52" EAST ALONG SAID FENCE LINE 2004.65 FEET TO A FENCE LINE; THENCE NORTH 89°33'08" WEST ALONG SAID FENCE LINE 1321.70 FEET TO A FENCE CORNER AT THE SOUTH QUARTER CORNER OF SECTION 10, T3S, R5E, SLB&M.; THENCE NORTH 00°15'43" WEST ALONG THE QUARTER SECTION LINE 6248.26 FEET TO THE SOUTH QUARTER CORNER OF SECTION 3, T3S, R5E, SLB&M.; THENCE NORTH 00°07'13" EAST ALONG THE QUARTER SECTION LINE 1080.00 FEET; THENCE NORTH 89°52'57" EAST 661.21 FEET; THENCE NORTH 00°07'02" EAST 660.03 FEET; THENCE SOUTH 89°52'57" WEST 661.18 FEET TO THE QUARTER SECTION LINE; THENCE NORTH 00°07'13" EAST ALONG SAID QUARTER SECTION LINE 1320.01 FEET; THENCE NORTH 89°52'57" EAST 661.03 FEET; THENCE SOUTH 00°06'50" WEST 660.00 FEET; THENCE NORTH 89°52'57" EAST 661.11 FEET TO THE WEST LINE OF LOT 1, SECTION 3, T3S, R5E, SLB&M.; THENCE NORTH 00°06'28" ALONG SAID LOT LINE 2119.13 FEET TO THE INTERSECTION OF SAID LOT LINE AND THE SOUTHERLY RIGHT-OF-WAY LINE OF HIGHWAY 32; THENCE ALONG SAID RIGHT-OF-WAY LINE AS FOLLOWS: NORTH 76°23'24" EAST 785.78 FEET, NORTH 77°48'29" EAST 191.92 FEET, NORTH 81°45'42" EAST 68.28 FEET, NORTH 89°07'23" EAST 182.34 FEET, NORTH 88°34'38" EAST 471.83 FEET, NORTH 87°23'08" EAST 806.83 FEET, NORTH 89°58'42" EAST 208.38 FEET, NORTH 78°15'58" EAST 209.04 FEET, SOUTH 13°33'20" EAST 189.67 FEET, SOUTH 13°34'32" EAST 61.73 FEET, NORTH 41°35'11" EAST 80.85 FEET, NORTH 41°30'21" EAST 421.18 FEET, NORTH 69°07'27" EAST 213.11 FEET, NORTH 69°16'05" EAST 137.10 FEET, NORTH 69°12'13" EAST 282.40 FEET, NORTH 69°17'44" EAST 422.32 FEET, SOUTH 88°21'54" EAST 300.00 FEET, NORTH 89°44'47" EAST 324.08 FEET, NORTH 82°29'07" EAST 333.19 FEET, NORTH 59°44'23" EAST 336.67 FEET, NORTH 41°18'08" EAST 300.01 FEET, NORTH 72°00'34" EAST 185.18 FEET, NORTH 71°31'28" EAST 81.66 FEET, NORTH 72°03'55" EAST 185.68 FEET, NORTH 71°58'22" EAST 347.09 FEET, NORTH 72°06'15" EAST 24.25 FEET TO THE INTERSECTION OF SAID RIGHT-OF-WAY LINE AND THE EAST LINE OF SECTION 35, T2S, R5E, SLB&M.; THENCE SOUTH 00°01'24" EAST ALONG SAID SECTION LINE 1343.68 FEET TO THE SOUTHEAST CORNER OF SAID SECTION 35; THENCE NORTH 89°30'44" EAST ALONG THE SECTION LINE 54.63 FEET TO THE POINT OF BEGINNING.
CONTAINING 1481.01 ACRES

AND A PARCEL OF LAND MORE PARTICULARLY DESCRIBED AS:

BEGINNING AT THE INTERSECTION OF THE NORTH RIGHT-OF-WAY LINE OF STATE HIGHWAY 32 AND THE WEST LINE OF SECTION 35, T2S, R5E, SLB&M., WHICH POINT IS NORTH 00°01'24" WEST ALONG THE SECTION LINE 336.18 FEET FROM THE SOUTHWEST CORNER OF SECTION 35, TOWNSHIP 2 SOUTH, RANGE 5 EAST, SALT LAKE BASE AND MERIDIAN; THENCE NORTH 00°01'24" WEST ALONG THE SECTION LINE 331.47 FEET TO THE NORTHWEST CORNER OF THE S1/2 S1/2 SW1/4 OF SAID SECTION 35; THENCE NORTH 89°41'09" EAST 2020.85 FEET TO THE NORTHERLY RIGHT-OF-WAY LINE OF SAID STATE HIGHWAY 32; THENCE SOUTH 36°01'20" WEST ALONG SAID HIGHWAY LINE 41.81 FEET; THENCE SOUTH 82°58'47" WEST CONTINUING ALONG SAID HIGHWAY LINE 813.69 FEET; THENCE SOUTH 83°10'38" WEST CONTINUING ALONG SAID HIGHWAY LINE 191.93

Ent 321077 Bk 0941 Pg 1763

Ent 320095 Bk 0940 Pg 0026

FEET; THENCE SOUTH 87°23'08" WEST CONTINUING ALONG SAID HIGHWAY LINE 806.83
FEET; THENCE SOUTH 88°36'00" WEST CONTINUING ALONG SAID HIGHWAY LINE 442.28
FEET TO THE POINT OF BEGINNING.
CONTAINING 12.44 ACRES MORE OR LESS

EXHIBIT B

Ent 320095 & 0940 Pg 0027

TALISMAN DEVELOPMENT AGREEMENT

[Affordable Housing Agreement - see attached]

Ent 320095 Bk 0940 Pg 0028

WASATCH COUNTY HOUSING AUTHORITY

475 North Main Street • Heber City, UT 84032

April 27, 2007

Al Mickelson
Wasatch County Planning Department
188 South Main Street
Heber City, UT 84032

RECEIVED
MAY 01 2007
WASATCH COUNTY
PLANNING DEPARTMENT

RE: Talisman Phase 1

Dear Al,

On behalf of the Wasatch County Housing Authority, I am writing to inform you of the intent to satisfy the current Wasatch County Affordable Housing Ordinance, for the Talisman development which is now under review for final approval by the Wasatch County Planning Commission and Council.

As specified by Talisman representative, Tyler Frisby, it is the understanding of the Housing Authority Board that Talisman Phase 1 includes 71 units. This equates to a 7.1 ERU requirement of Affordable Housing (10%, as indicated in the Wasatch County Affordable Housing Ordinance). Mr. Frisby has committed to pay the current fee-in-lieu for Phase 1.

Additionally, Mr. Frisby has agreed to the following payment structure:

Total Fee-in-Lieu (Currently \$28,000 per ERU)	\$198,800
1/3 Paid at Plat Recordation	\$66,267
1/3 Paid 90 Days Following Plat Recordation	\$66,267
1/3 Paid Prior to Issuance of First Building Permit	\$66,266

Upon my receipt of initial payment, Talisman Phase 1 has approval from the Wasatch County Housing Authority to proceed with development of the plat specified. I will provide a letter of receipt for the two subsequent payments, with the expectation that building permits will not be issued until the fee-in-lieu is paid in full. If you have any questions, please contact me at 435.657.2800, extension 104, or by email at wasatchcountyhousing@hotmail.com.

Sincerely,


Jennifer Kohler
Acting Director
Wasatch Housing Authority

EXHIBIT C

Est 320095 Bk 0940 Pg 0029

TALISMAN DEVELOPMENT AGREEMENT

[Will Serve Letters - see attached]

**Wasatch County Fire District
25 North Main Street
Heber City, Utah 84032**

Phone: 435-240-4436
Fax: 435-240-4435

April 20, 2006

Aspens Development/Jordanville Basin
Prime West Eico, LLC
831 North 142 East
Orem, Utah 84097

Re: Aspens - Fire Will Serve Letter
Fax: 801-606-2736

To Whom It May Concern:

I/We Prime West Eico, LLC, the undersigned, by my/our signature, agree that I/we will comply with all the codes and standards of the Wasatch County Fire District and the Wasatch County Code and ordinances which apply to the Aspens subdivision.

The Wasatch County Fire District will furnish fire protection to this area only when the infrastructure of the subject subdivision has been completed in accordance with the International Fire Code and all other Wasatch County ordinances adopted to date.

No construction of any structure will be permitted until all the requirements of the International Fire Code Edition 2003 have been met.

Fire Flow Requirements

Fire-Flow Requirements for buildings shall be based upon Appendix B of the International Fire Code which states: The minimum fire flow requirements for one and two family dwellings having a fire area which does not exceed 3,600 square feet shall be 1,000 gallons per minute. Fire flow for dwellings having a fire area in excess of 3,600 square feet shall not be less than that specified in Table B105.1 (located on page 372 of the International Fire Code). Sprinklers may be required on all structures throughout the project.

Placement of Fire Hydrants

Fire hydrant placement shall be as per the International Fire Code Edition 2003 Appendix C.

Dated this 20 day of April, 2006.

Wasatch County Fire District

Ernie Gilen, Fire Chief

Ent 320095 Bk 0940 Pg 0031

JORDANELLE SPECIAL SERVICE DISTRICT

P.O. Box 819
10420 North Jordanelle Blvd. Ste. A
Heber City, Utah 84032

Telephone: (435) 940-8818
Facsimile: (435) 940-9638

April 20, 2006

Al Mickelson,
Wasatch County Planner
25 North Main Street
Heber City, Utah 84032

RE: Will-serve letter for Phase I of the proposed Aspens development.

Dear Al:

As you know, the Aspens development is a part of the Jordanelle Special Service District. As such, water and wastewater services will be provided by JSSD. We have been actively involved in the planning process with respect to these services. JSSD will provide culinary water, irrigation water and wastewater collection and treatment services to the Aspens project as generally described below:

Culinary water: JSSD will own and operate the culinary water system which will service Phase I of the Aspens. Aspens has reserved sufficient water rights to provide for the culinary water needs of the proposed Phase I of the development. The source for the water will be wells and/or treatment plants owned and operated by JSSD. We plan on eventually developing redundant culinary water sources to make sure we can meet the needs of all the Area C properties. Aspens is part of the Area C Bond, which will build wells, tanks and some lines for the Aspens. Aspens will be responsible for all water infrastructure not paid for by the Bond. Those costs will be borne by Aspens, with the possibility of eventual participation by other developers in the area. JSSD has prepared preliminary engineering design of the water system, along with the required storage tanks, pump stations and other appurtenant improvements. All culinary water system components will be designed and built to meet JSSD and State Standards. Additionally, when completed, the entire culinary water system, and the water rights to service that system, will be owned and operated by JSSD.

Irrigation water: Aspens has reserved sufficient water rights to provide for irrigation of the proposed Phase I of their development. Irrigation water may come from wells, storage ponds, reuse or other sources.

Ent 320095 Bk 0940 Pg 0032

Wastewater treatment: JSSD will own and operate the wastewater collection and treatment system that will service the Aspen project. The Area C Bond will pay for the engineering, design and construction of a wastewater collection system, and a wastewater treatment facility utilizing Xanox microfiltration technology. JSSD is in the process of designing that treatment plant, and securing necessary state approvals. As emergency back-up, JSSD will contract with HVSSD to provide treatment services on a temporary basis, if needed. Aspen will pay for necessary pump stations and appurtenant facilities on site in order to get the wastewater to the Bonded facilities. All wastewater collection and treatment facilities will be designed and constructed to meet or exceed JSSD and state standards. Additionally, all wastewater system facilities will be owned and operated by JSSD after their completion.

If you have any questions or concerns, please do not hesitate to give me a call.

Sincerely,



Dan H. Matthews, manager
Jordanelle Special Service District

DHM/

Est 320095 Bk 0940 Pg 0033

WASATCH COUNTY SHERIFF'S OFFICE

Ken Van Wagoner
1361 South Hwy. 40
Heber City, UT 84032
(435) 654-1298
(435) 657-3580 Fax

TO: Wasatch County Planning Office
FROM: Sheriff Ken Van Wagoner
DATE: April 19, 2006
RE: WILL-SERVE LETTER

Please accept this correspondence as our official declaration that the Wasatch County Sheriff's Office will serve **THE ASPENS AT JORDANELLE**. This development, as with any in Wasatch County, will receive all of the services we have to offer to all who are in Wasatch County. The Wasatch County Sheriff's Office will provide the same standard of law enforcement as we do all the residents of Wasatch County

COUNTY MANAGER
Michael K. Davis



COUNTY COUNCIL
Neil B. Anderson
Kipp Baugher
Kendall Crandall
Viv Dwyer
Steve Farnell
Michael L. Koller
Jay Price

Ext 320095 & 0940 Pj 0034

April 19, 2006

Re: Refuse collection service The Aspens at Jordanelle Subdivision.

To Whom It May Concern:

Wasatch County Solid Waste Disposal District currently collects refuse along State Road 32 from Highway 40 to Noblets area. Service to the new subdivision, The Aspens at Jordanelle Subdivision will be available as front load containers placed at the entrance of the private areas of the subdivision and residential containers along public roads.

All residents of Wasatch County are required to have collection service. A setup fee must be paid at the time a building permit is issued.

If you have any further questions, please call (435) 654-1661 ext. 3275.

Sincerely,



Valerie Cummings
Wasatch County Solid Waste Disposal District

ASSESSOR Glen C. Baugher	ATTORNEY Thomas L. Low	CLERK/AUDITOR Wendy H. Tibbitts	RECORDER Elizabeth M. Palmer	SHERIFF Ken Van Wageningen	SURVEYOR James Johnson	TREASURER Kathryn West-Boyle	JUSTICE COURT JUDGE Michael Spruce
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Ent 320095 Bk 0940 Pg 0035



6280 N. SILVER CREEK DR. PO BOX 1566 PARK CITY, UTAH 84060 April 19, 2006 (435) 655-7813

Wasatch County
Community Development
Attn: Al Michelsen
25 North Main St.
Heber City, Utah 84032

Re: Availability of Utilities for The Aspens at Jordanel

This is to verify that PacifiCorp d.b.a. UTAH POWER:

- 1) Has sufficient capacity at the present time to provide, single and three phase power to the above titled development / project.
- 2) I will review the development plans, when they're submitted by: Prime West, LLC Developer(s).
Electric service will be provided under the prevailing "Rates and Regulations", as filed with the "Public Utilities Commission of Utah".
- 3) Adequate rights-of-way or easements either presently exists or will be provided by the developer to supply the requested services(s).

Sincerely,

R. Duane Layton
Journeyman Estimator
(435) 655-7813

cc: job file
Tyler Frisby @ LanDev Engineers, LLC.

APR 19 2006 5:11 PM

ALL WEST COMMUNICATIONS

NO. 6376 P. 2



0095 N 0940 P1 0036

April 18, 2006

Mr. Tyler Frisby
P.O. Box 864
Heber City, Utah 84032


RE: Will Serve Letter

To whom it may concern:

This letter is to you that All West Communications is prepared to proceed with construction and provide telecommunications facilities and services to the following developments located within Wasatch County.

1. The Aspens

If you have any further questions please feel free to contact me.

Sincerely,

 Jack Walkenhorst
 All West Communications
 VP/OSP & Engineering
 435-783-4938
 jwalk@allwest.net

Ent 320095 R 0940 P1 0037

Wasatch County School District

April 25, 2006

LandDev Engineers L.L.C.
P.O. Box 864
Heber City, UT 84032

District School Board
Helen Robinson, President
Claudia Boudreau
Alan Blach
Ann Marie Hoover
Robert Scherer
Superintendent of Schools
Terry E. Shoemaker
Business Administrator
Keith Johnson


Dear Mr. Frisby:

I am responding to your request for a "will serve" letter for the development "The Aspens at Jordanelle", a future development located at the Jordanelle basin in Wasatch County. At this time, we are able to indicate that we will serve future residents of this area through our existing public school system. Transportation to schools for students from that area may be provided by Wasatch County School District as required under the rules and regulations of state law and school district policy. See the attached document "Requirements for Bus Route Approval" for guidelines and contact Transportation Supervisor, Kris Allen, at 435-654-0512 for further information.

We are aware that space for school sites is being considered by Wasatch County. If the sites come to fulfillment, we will be able to serve the needs of students in that area as growth requires.

Thank you for your notification on this project.

Sincerely,


Terry E. Shoemaker
Superintendent of Schools

Attachment:

- C Helen Robinson, School Board President
- Kris Allen, School Transportation Supervisor

EXHIBIT D Ent 320095 Bk 0940 Pg 0038

TALISMAN DEVELOPMENT AGREEMENT

Open Space for Phase I - 18 Hole Golf Course Layout

Ext 320095 Bk 0940 Pg 0039

DECLARATION OF EASEMENT

THIS DECLARATION OF EASEMENT ("Easement"), made this 10th day of May, 2007, by and between the following:

PRIME WEST JORDANELLE, LLC, a Utah limited liability company located at 3940 E. Fairbrook Circle, Mesa, Arizona 85205, hereinafter referred to as "Grantor,"

and

WASATCH COUNTY, a political subdivision of the State of Utah, at 25 North Main Street, Heber City, Utah 84032, referred to as "Grantee."

RECITALS:

WHEREAS, Grantor (or Grantor's agent) has obtained authority to develop pursuant to a Plan in accordance with Wasatch County and State of Utah laws; and

WHEREAS, the Planning Commission or other approving authority approved Grantor's Plan conditioned upon a requirement that development occur in strict accordance with open space requirements of Wasatch County Code, Title 16 and/or the Planning Commission approved Grantor's Plan conditioned upon Grantor subjecting the property to be developed ("Property") or a portion of the property to be developed to an open space/conservation easement pursuant to the provisions of Wasatch County Code Title 16; and

WHEREAS, the location of this easement ("Easement") is as shown on Exhibit A (incorporated by reference into the terms of this Agreement); and

WHEREAS, the purpose of this Easement is to protect open space parcels shown on the Talisman Phase I Subdivision plat from any future subdivision or development for purposes other than golf course, recreational facilities, project amenities or other approved open space uses; and

WHEREAS, the Parties intend for the conditions and covenants contained in this Easement Agreement to run with the land in perpetuity and to be binding on all subsequent owners and occupants of the Property;

NOW, THEREFORE, the Grantor has executed this agreement for no monetary consideration but for the purpose of ensuring compliance with development standards imposed in accordance with Wasatch County law as a condition of development approval.

Grantor does hereby grant and convey unto Wasatch County, in perpetuity, an Easement on the Property of the size and location described in Exhibit A, and further described on the applicable record plat(s), of the nature and character described herein. This Easement constitutes a covenant real running with the title of the land, and is granted to preserve open space and green space and prohibit further development of said land. Grantor, its heirs, successors and assigns covenant to abide by the following restrictions within the Easement:

Ent 320095 Bk 0940 Pg 0040

A. The foregoing recitals are agreed to and incorporated herein and shall be binding upon the parties.

B. Buildings, sheds, structures, roads or utilities necessary for the operation of a golf course may be constructed only upon written approval of the Planning Director.

C. Clubhouses, collateral amenities or other recreational amenities not approved as part of the development process will not be allowed. Construction of any roadway or private drive except for those approved as part of the development review process will not be allowed unless approved by the Planning Director.

D. Should the land ever cease to be used as a golf course it must be re-vegetated with indigenous trees, shrubs, plants, and grasses and returned to its natural state as approved by the Planning Director and be maintained in such condition as natural open space.

E. Fences consistent with the purposes of the Easement may be erected only after written approval from the Planning Director.

F. The following activities may not occur at any time:

1. Excavation, dredging, or removal of loam, gravel, soil, rock, sand and other materials except as approved for golf course construction or re-vegetation as approved by the Planning Director.

2. Industrial or commercial activities other than those related to the operation of golf course, recreational activities, or other project amenities.

3. Location of any component of a septic system.

4. Storage of manure or any other suit or animal by product other than materials used for the maintenance of golf course or other recreational activities.

5. Residential development.

G. No dumping of unsightly or offensive material, including trash, ashes, sawdust or grass clippings shall occur. Natural biodegradable materials may be allowed in a properly located, designed, managed and maintained compost pile, provided the activity does not damage adjacent trees. Upon prior written approval of the Planning Director, suitable heavy fill and other stabilization measures may be placed to control and prevent erosion, provided that the fill is covered by arable soil or humus and properly stabilized.

H. Unpaved or paved paths or trails consistent with the purposes of the Easement may be created only after written approval from the Planning Director.

I. All rights reserved by or not prohibited to Grantor shall be exercised so as to prevent development or use of the land not in keeping with the intent of preserving open space and green space as set forth herein.

J. Grantor authorizes Wasatch County representatives to enter the Property and Easement at reasonable hours for the purpose of making periodic inspections to ascertain whether the Grantor, its heirs, successors or assigns have complied with the restrictions, conditions, and easements established herein. This Easement does not convey to the general public the right to enter the Property or Easement for any purpose. The Easement does not restrict or enlarge access to the general public in common open space held under community or homeowner

Est 320095 & 0940 P, 0042

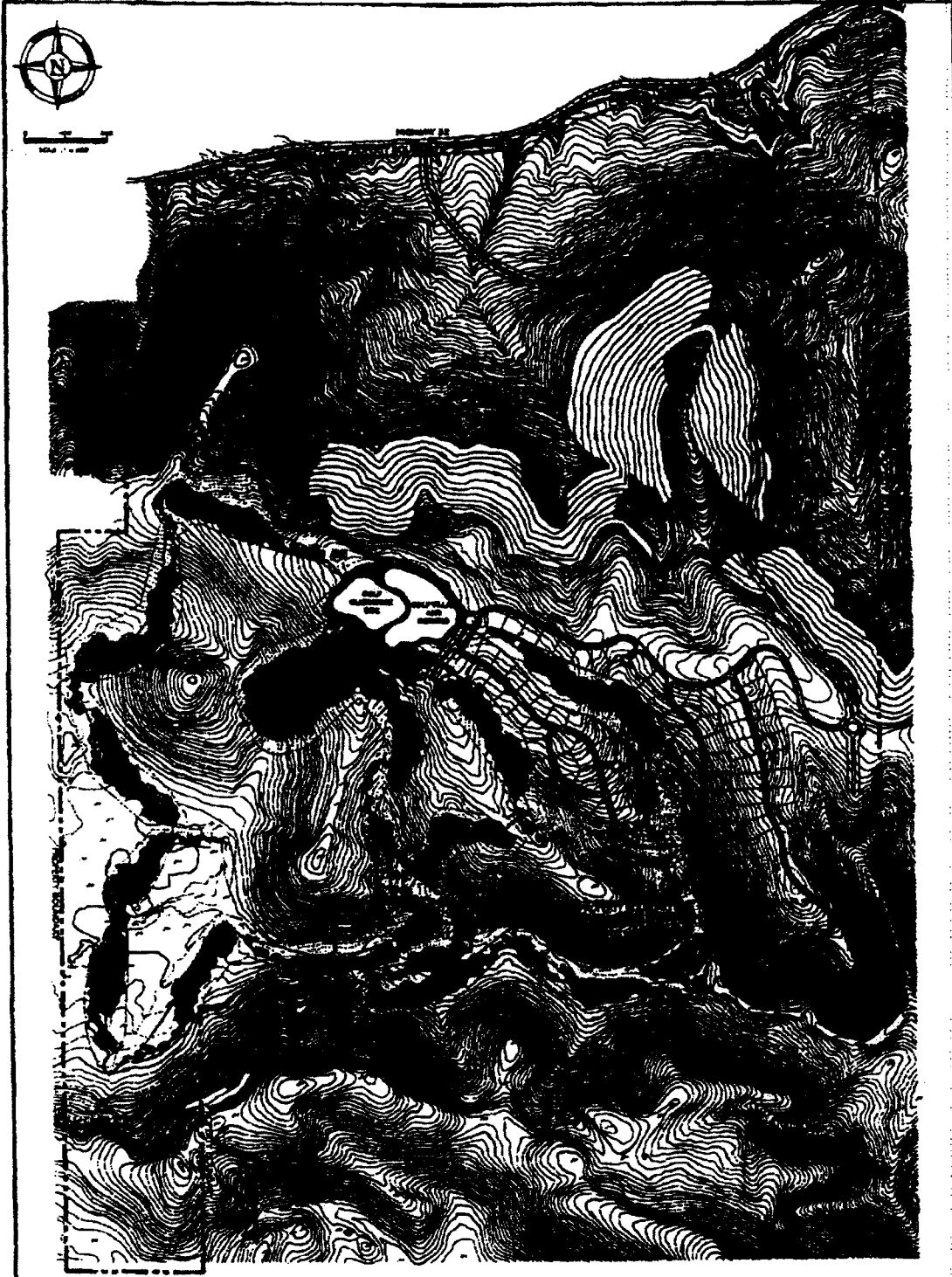
EXHIBIT A

OPEN SPACE EASEMENT

A Tract of land located in Sections 2 and 11, Township 3 South, Range 5 East, Wasatch County, Utah, more particularly described as:

TRACT A - GOLF COURSE / OPEN SPACE, as identified on the Talisman Phase I Subdivision Final Plat, of record with the Wasatch County Recorder's Office, containing 25.14 acres more or less.

lot 320095 R 0940 P 0043



1 AS 200 2010	TALISMAN	
	SITE PLAN	LanDev Engineers, LLC Engineering • Surveying • Project Management <small>201 E. Exchange Street, Suite 200 Phoenix, Arizona 85004 Phone: (602) 270-0000 Fax: (602) 270-0001 www.landev.com</small>

**BYLAWS
OF
TALISMAN HOMEOWNERS ASSOCIATION, INC.**

**ARTICLE I
DEFINITIONS AND APPLICABILITY**

1.1 Definitions. In these Bylaws, unless the context otherwise requires all definitions shall be as set forth in the Declaration of Covenants, Conditions and Restrictions for Talisman to be recorded in the Office of the Wasatch County, Utah Recorder, hereinafter referred to as the "Declaration".

1.2 Association Responsibilities. Talisman Homeowners Association, Inc. ("the Association") shall have the responsibility of the proper and efficient management and operation of the Common Area, approving the annual budget, establishing and collecting assessments together with such other responsibilities as set forth in these Bylaws and the Declaration.

1.3 Binding Effect. All present and future Owners, Members, mortgagees, and occupants of Talisman, and their guests, invitees, lessees, renters, agents, servants and other Persons who may use the facilities at Talisman in any manner are subject to the Declaration, these Bylaws and any rules made pursuant thereto.

**ARTICLE II
MEETINGS OF MEMBERS**

2.1 Annual Meetings of Owners. There shall be an annual meeting of the Owners on the third Wednesday of January of each year at such time and place convenient to the Owners as may be designated by the Board of Trustees. The Board of Trustees may designate another date for such annual meeting not more than thirty (30) days before or after the date fixed for said annual meeting by written notice of the Board given to the Owners not less than ten (10) nor more than fifty (50) days prior to the date fixed for said annual meeting specifying the date, time and place thereof.

2.2 Special Meetings of Owners. A special meeting of the Owners may be called at any reasonable time and place by written notice of the Board of Trustees or by the Owners having one-tenth (1/10) of the total votes and delivered notice to all other Owners not less than ten (10) days nor more than thirty (30) days prior to the date fixed for said meeting, specifying the date, time and place thereof, and the nature of the business to be undertaken. No business shall be transacted at a special meeting except as stated in said notice unless by consent of a majority of Owners present, either in person or by proxy.

2.3 Notice of Meeting. It shall be the duty of the Secretary of the Association to mail or deliver a notice of annual or special meeting within the time period specified above and in the case of a special meeting, stating the purpose thereof as well as the date, time and place where it is to be held to each Owner of record. The record date for determining Members entitled to notice of and to vote at an annual or special Members meeting is the date before the effective date of the first notice to the Members. The mailing or delivery of such notice to each Owner

shall be considered notice served.

2.4 Quorum and Adjourned Meeting. The presence at any annual meeting, in person or by proxy, of the Owners entitled to vote at least ten percent (10%) of the total votes shall constitute a quorum. The presence at any special meeting, in person or by proxy, of the Owners entitled to vote at least twenty-five percent (25%) of the total votes shall constitute a quorum. If any meeting cannot be held because a quorum is not present, the Owners present, either in person or by proxy, may adjourn the meeting to a time not less than forty-eight (48) hours nor more than thirty (30) days from the time the original meeting was called, at which meeting the quorum requirement shall be the same as that for the original meeting. Except as otherwise provided in the Declaration, the Articles of Incorporation or these Bylaws any action may be taken at any meeting of the Owners upon the affirmative vote of the Owners having a majority of the total votes present at such meeting either in person or by proxy.

2.5 Proxies. Votes may be cast by proxy, provided that proxies are filed with the Secretary of the Association at or before the appointed time of the meeting. Every proxy shall be revocable and shall automatically cease upon conveyance by the Owner of his/her Lot.

2.6 Multiple Owners. If only one of the multiple Owners of a Lot is present at a meeting of the Association, he or she is entitled to cast all the votes allocated to that Lot. If more than one of the multiple Owners of a Lot is present, the votes allocated to that Lot may be cast only in accordance with the agreement of a majority in interest of the multiple Owners unless the Declaration expressly provides otherwise. There is majority agreement if any one of the multiple Owners casts the votes allocated to the Lot without protest being made promptly to the person presiding over the meeting by any of the other Owners of the Lot.

2.7 Suspension of Voting Rights. In the event any Lot Owner is in arrears in the payment of any Assessment, monetary penalty or other fee or charge due under the terms of the Declaration for a period of thirty (30) days, the Owner's right to vote as a Member of the Association shall be automatically suspended and shall remain suspended until all payments, including accrued interest and attorney fees, are brought current. In the event any Owner violates any provisions of the Declaration or any of the rules, regulations or use restrictions (other than provisions requiring the payment of money to the Association) and the violation is not corrected to the satisfaction of the Association within fifteen (15) days after notice of the violation is given to the Owner by the Association, the Owner's right to vote as a Member of the Association shall be automatically suspended and shall remain suspended until the violation is corrected to the satisfaction of the Association.

2.8 Organization and Conduct of Meeting. All Members attending a meeting of the Members shall register with the Secretary (or such person as may be designated by the Secretary prior to the meeting) and all proxies must be filed with the Secretary (or such person designated by the Secretary prior to commencement of the meeting). After the meeting is called to order by the chair of the meeting, no further proxies or changes, substitutions or revocation of proxies will be accepted. The President of the Association will call all meetings of the Members to order. If there is no President, or if the President is absent or so request, then the Vice President will call the meeting to order. If both the President and Vice President are not present at the meeting, any other Officer of the Association or such Member of the Association as is appointed by the Board of Trustees may call the meeting to order and chair the meeting. The chair of the meeting may appoint any person (whether or not a Member of the Association) to act as Recording Secretary. The chair of the meeting shall have the authority to determine the order of business to be

conducted at the meeting and to establish reasonable rules for expediting the business of the meeting.

2.9. Action by Written Ballot. Any action that the Association may take at any annual, regular or special meeting of the Members may be taken without a meeting if the Association delivers a written ballot to every Member entitled to vote on the matter. The written ballot shall set forth each proposed action and provide an opportunity to vote for or against each proposed action. All solicitations for votes by written ballot shall: (a) indicate the number of responses needed to meet the quorum requirements; (b) state the percentage of approvals necessary to approve each matter other than election of Trustees; and (c) specify the time by which a ballot must be delivered to the Association in order to be counted, which time shall not be less than three (3) days after the date that the Association delivers the ballot. Once the Association has received a written ballot, the ballot may not be revoked. Approval by written ballot pursuant to this Section is valid only if both the number of votes cast by ballot equals or exceeds the quorum required to be present at a meeting authorizing the action and the number of approvals equals or exceeds the number of votes which would be required to approve the matter at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot. If not otherwise fixed by the Board of Trustees, the record date for determining Members entitled to take action without a meeting is the date the first Member signs the consent to the action. A consent signed under this Section has the effect of a meeting vote and may be described as such in any document. Written notice of Member approval pursuant to this Section shall be given to all Members who have not signed the written consent. Unless otherwise specified in the consent or consents, the action is effective on the date the consent or consents are signed by the last Member whose signature results in the required amount of the eligible votes. Any Member may revoke the Member's consent by delivering a signed revocation of the consent to the President or Secretary before the date that the consent or consents are signed by the last Member whose signature results in the requisite amount of the eligible votes.

2.10. Action by Written Consent. The Members may approve any action required or permitted by law that requires the Members' approval without a meeting of the Members if the action is approved by Members holding at least a majority of the eligible votes, unless the Declaration, Articles of Incorporation, these Bylaws or applicable law require a different amount of voting power. The action shall be evidenced by one or more written consents describing the action taken, signed by those Members representing at least the requisite amount of the eligible votes, and delivered to the Association for inclusion in the minutes or filing with the corporate records of the Association.

2.11. Voting Requirements. Unless otherwise provided in the Declaration or the Articles of Incorporation, if a quorum is present at a meeting of the Members, the affirmative vote of a majority of the votes represented and voting is the act of the Members.

ARTICLE III BOARD OF TRUSTEES

3.1. Number and Qualifications. The affairs of the Association shall be conducted by a Board of Trustees, who need not be Owners. During the Period of Declarant Control the minimum number of Trustees shall be one (1). After the expiration of the Period of Declarant Control, the minimum number of Trustees shall be three (3). The maximum number of Trustees shall be nine (9). Individuals shall not be compensated for serving as Trustees of the Association.

3.2. Election and Term of Office. Subject to the requirements of Section 4.1 of these Bylaws, the Trustees shall be elected at a regular annual meeting of the Association by majority vote of the total votes cast by both classes of the membership by Owners present either in person or by proxy, constituting a quorum, for a term until the next regular annual meeting unless a longer or shorter term is authorized as hereinafter provided and shall hold office until their successors are elected and qualify. Notwithstanding the foregoing, or any other provision hereof, so long as the Declarant retains any Class B membership of the Association, the Declarant reserves the exclusive right to appoint and remove the Officers and Trustees of the Association and may do so without calling a meeting therefore. The Members of the Board may succeed themselves for not more than six (6) consecutive years, but in no instance shall there be more than one (1) Board Member from each Lot.

The Board of Trustees, prior to a regular annual meeting, shall appoint a nominating committee to obtain a list of names of Owners who desire to serve on the Board of Trustees to be elected at the forthcoming regular annual meeting and the nominating committee shall inform the Owners that it is accepting names of persons to serve on the Board of Trustees. After the nominating committee has determined which Owners are willing to serve on the Board of Trustees, it shall prepare a list of such names and submit it at the next regular annual meeting for a vote of the Owners. An Owner may be elected to the Board of Trustees even though his/her name does not appear on the list prepared by the nominating committee. Election to the Board of Trustee shall be by secret written ballot. The nominating committee shall count and verify the ballots collected at the regular annual meetings.

3.3. Vacancies. The Declarant shall fill vacancies in the Board of Trustees during the Period of Declarant Control. After the expiration of the Period of Declarant Control, vacancies in the Board of Trustees caused by any reason other than the removal of a Trustee by vote of the Owners shall be filled by vote of the majority of the remaining Trustees, even though they constitute less than a quorum; and each person so elected shall be a Trustee until a successor is elected at the next regular annual meeting of the Association.

3.4 Resignation of Trustees. A Trustee may resign at any time by delivering written notice to the Board of Trustees, its presiding officer or the Association. A resignation is effective when the notice is delivered unless the notice specifies a later effective date or event. If a resignation is made effective at a later date, the Board may fill the pending vacancy before the effective date if the Board provides that the successor does not take office until the effective date.

3.5 Removal of Trustees. Except with respect to Members of the Board of Trustees appointed by the Declarant, at any regular or special meeting duly called, any one or more of the Trustees may be removed with or without cause by seventy-five percent (75%) of the Owners and a successor may then and there be elected to fill the vacancy thus created. Any Trustee whose removal has been proposed shall be given an opportunity to be heard at the meeting.

3.6. Organizational Meeting. The first meeting of a newly elected Board of Trustees shall be held within ten (10) days of election at such place as shall be fixed by the Trustees at the meeting at which such Trustees were elected, and no notice shall be necessary to the newly elected Trustees in order to legally constitute such meeting, provided a majority of the whole Board shall be present.

3.7. Regular Meetings. Regular meetings of the Board of Trustees may be held at

such time and place as shall be determined, from time to time, by a majority of the Trustees, but at least two (2) such meetings shall be held during each fiscal year after termination of the Class B period. Notice of regular meetings of the Board of Trustees shall be given to each Trustee, personally, by mail or telephone at least two (2) days prior to the day set for such meeting.

3.8. Special Meetings. Special meetings of the Board of Trustees may be called by the Chairman of the Board or the President on two (2) days notice to each Trustee, given personally, by mail or telephone, which notice shall state the date, time, place and purpose of the meetings. Special meetings of the Board of Trustees shall be called by the President or Secretary in like manner and on like notice on the written request of at least two (2) Trustees. Notwithstanding the foregoing, a majority of the Trustees may waive the two (2) day notice requirement for calling a special meeting and convene a special meeting at such time and place as agreed upon by the majority of Trustees.

3.9. Board of Trustee's Quorum. At all meetings of the Board of Trustees, a majority of the Trustees shall constitute a quorum for the transaction of business, and the acts of the majority of the Trustees present at a meeting at which a quorum is present shall be the acts of the Board of Trustees. If a quorum is present when a meeting is convened, the quorum shall be deemed to exist until the meeting is adjourned notwithstanding the departure of one or more Trustees. If, at any meeting of the Board of Trustees, there be less than a quorum present, the majority of those present may adjourn the meeting, from time to time. At any such adjourned meeting, providing a quorum is then present, any business that might have been transacted at the meeting as originally called may be transacted without further notice.

3.10. Powers and Authority of the Board of Trustees. The Board of Trustees shall have all the powers of an Utah nonprofit corporation, subject only to such limitations upon the exercise of such powers as are expressly set forth in the Association's Articles of Incorporation, these Bylaws and the Declaration. The Board shall have the power to do any and all lawful things which may be authorized, required or permitted to be done by the Association under and by virtue of said Articles, these Bylaws and the Declaration, and to do and perform any and all acts which may be necessary or proper for or incidental to the exercise of any of the express powers of the Association. Without in any way limiting the generality of any of the foregoing provisions, the Board shall have the power and authority at any time to do the following:

- (a) Provide for the care, upkeep, repair and supervision of the Common Area. The Board shall determine all maintenance and repair expenses on the basis of competitive bids whenever logical and possible: the bid(s) shall be submitted by reputable contractors or persons in the business of performing said maintenance and repairs. The Board shall select the best bid, which need not be the lowest bid, and the Board's decision in this regard shall be final and conclusive.
- (b) Collect assessments, fees and charges from Owners.
- (c) Designate, hire and dismiss personnel necessary for the maintenance and operation of the Common Areas and to provide services to the Property.
- (d) Maintain insurance coverage as provided for in the Declaration.
- (e) Grant and convey to any person easements, rights-of-way, parcels or strips

of land in, on, over or under any portion of the Common Area for the purpose of constructing, erecting, operating or maintaining thereon, therein and thereunder (1) roads, streets, walks, pathways and driveways; (2) temporary overhead or permanent underground lines, cables, wires, conduits, or other devices for the transmission of electricity for lighting, heating, power, telephone, cable television, and other purposes; (3) sewers, storm drains and pipes, drainage easements, water systems, water, heating and gas lines or pipes; and (4) any similar or quasi public improvement or facilities.

- (f) Retain and pay for legal and accounting services necessary or proper in the operation of the Common Area, enforcement of these Bylaws and the Declaration, or in any of the other duties or rights of the Association.
- (g) Obtain or pay for, as the case may be, any other property, or services, which the Board deems necessary including but not limited to security services for the Common Area.
- (h) Enter at any reasonable time upon any exterior portion of any Lot for the purpose of carrying out its duties and obligations for exterior maintenance and landscaping pursuant to the Declaration.
- (i) Open bank accounts on behalf of the Association and designate signatories thereon.
- (j) Make or contract for the making of repairs, additions to, improvements to or alterations of the Property and the Common Areas in accordance with the Declaration.
- (k) To regulate the use and provide for appropriate safety measures for the Common Area.
- (l) To maintain the Common Area and such other areas for which the Association assumes maintenance, in a neat and attractive manner.
- (m) To construct new improvements or additions to the Common Area or demolish or replace existing improvements; provided, that in the case of any improvements, additions or demolition (other than maintenance or repairs to existing improvements and reconstruction made pursuant to Section 3.10(a) hereof) involving a special assessment, two-thirds (2/3) of the total votes cast by both classes of membership of the Association voting either in person or by proxy at an annual or special meeting called for the purpose of approving plans and a maximum total cost therefore shall first be obtained. The Board shall levy a special assessment on all Owners for the cost of such work pursuant to these Bylaws and the Declaration.
- (n) Select and employ a trust company, bank, or professional property management company, in southern Utah, to collect and disburse funds of the Association under such terms and conditions approved by the Board.

- (o) Grant and convey easements and rights-of-way in accordance with the terms of the Declaration.
- (p) Enforce by legal means the provisions of the Declaration, Articles of Incorporation, these Bylaws and any other rules, regulations or use restrictions of the Association.
- (q) Prepare and adopt an annual budget for the Association prior to the commencement of each fiscal year.
- (r) Levy Assessments in accordance with the Declaration and take all necessary action to collect such Assessments.
- (s) Issue or cause to be issued upon demand to any person, a certificate setting forth whether or not any Assessment has been paid.
- (t) Suspend a Member's voting rights and the right to use of the Common Area.
- (u) Cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate.
- (v) Adopt and publish rules and regulations governing the use of the Common Area and facilities and the personal conduct of the Members and their lessees and invitees thereon and establish penalties for the infraction thereof.
- (w) Exercise for the Association all powers, duties and authority vested in or delegated to the Association and not reserved to the membership by other provisions of the Declaration, Articles of Incorporation, Bylaws or rules, regulations or use restrictions.
- (x) Cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the Members at the annual meeting of the Members, or at any special meeting when such statement is requested in writing by any Member entitled to vote.
- (y) Cause all Trustees, Officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate.

3.11 Managing Agent. The Board of Trustees may employ for the Association a "Managing Agent" at a compensation established by the Board of Trustees. The Managing Agent shall perform such duties and services as the Board of Trustees shall authorize, including but not limited to, all of the duties listed in the Declaration and these Bylaws, except for the power to: (a) adopt the annual budget, any amendment thereto or make any assessment; (b) adopt repeal or amend rules, regulations or use restrictions; (c) designate signatories on Association bank accounts; (d) borrow money on behalf of the Association; or (e) acquire and mortgage Lots.

3.12 Power of Attorney to Repair; Disputes. In the event any property owned by the

Association is damaged or destroyed by an Owner or any of his/her guests, agents, tenants, invitees, licensees or members of his/her family, such Owner does hereby irrevocably authorize the Association to repair said damage, and the Association shall so repair said damage in a good workmanlike manner in conformance with the original plans and specifications therefore. Said Owner shall then repay the Association the amount actually expended for said repairs. In the event of a dispute between an Owner and the Board of Trustees with respect to the cause of damage or the extent of repairs necessitated or with respect to the cost thereof, then upon written request of the Owner delivered to the Association, the matter shall be submitted to arbitration under such rules as may from time to time be adopted by the Association. If no such rules have been adopted, then the matter shall be submitted to three (3) arbitrators, one chosen by the Board of Trustees, one chosen by said Owner and these two arbitrators shall choose a third arbitrator. A determination by any two of the three arbitrators shall be binding upon said Owner and the Association who shall share the cost of arbitration equally. In the event one party fails to choose any arbitrator within ten (10) days after receipt of a request in writing for arbitration from the other party, then said other party shall have the right and authority to choose both arbitrators.

3.13 Management. The Board shall control, maintain, manage and improve the Common Area as provided in these Bylaws, the Articles of Incorporation and the Declaration. Such right and power of control and management shall be exclusive. In managing the Common Area, the Association hereby accepts all responsibility for the control, maintenance, safety and liability of such Common Area including, but not limited to, collecting and paying taxes on Common Area, which shall be assessed by the Wasatch County Assessor.

3.14 Taxes. Owners shall pay all real estate and personal property taxes which may be assessed against their respective Lots. The Association shall pay all taxes levied upon any property conveyed, leased or otherwise transferred to the Association, to the extent not assessed to Owners.

3.15 Fidelity Bonds. The Association shall purchase and maintain in force, fidelity coverage against dishonest acts on the part of Trustees, Officers, managers, employees, or volunteers responsible for handling funds belonging to or administered by the Association, as determined appropriate by the Board of Trustees.

3.16 Reserves. The Board of Trustees of the Association shall provide that Association dues, charges or assessments shall include an adequate reserve fund for maintenance, repairs and replacement of the Common Area owned by the Association that must be repaired or replaced on a periodic basis. All such dues, charges and assessments imposed by the Association shall be paid on a periodic basis in regular installments rather than by special assessments.

3.17 Books and Records; Audit. The Board of Trustees shall keep or provide for the keeping of books with detailed accounts affecting the administration of the Common Area specifying the maintenance, repair and replacement expenses thereof and any other expenses incurred. The books and vouchers shall be made available for examination to any of the Owners at convenient hours on working days. At the Annual Meeting, the Board shall make available to the Members of the Association a complete financial report pertaining to the Association's financial condition. Upon the vote or written request of twenty-five percent (25%) of the Association's Members, the Board shall appoint a committee of at least three (3) Members to audit the books, or in the alternative, shall contract with a private accounting firm to audit same.

3.18 Authorized Payments by the Association. The Board of Trustees shall have the exclusive authority to make payments out of the Association's funds for the benefit of each Owner. This authority shall include, but shall not be limited to, the following:

- (a) All goods, materials, supplies, labor, services, maintenance, repair, alterations, reconstruction and insurance which the Board of Trustees is authorized to obtain and pay for pursuant to these Bylaws or the Declaration or which are authorized by the Owners for the convenient operation of the Common Areas.
- (b) Workmen's Compensation Insurance to the extent necessary to comply with any applicable laws.
- (c) Professional management services as provided herein, legal, accounting and other services contracted for by the Board of Trustees if it is deemed necessary by them for the operation and maintenance of the Common Areas, protection of any of the Common Areas or in the best interest of the Owners.
- (d) Subject to the applicable provisions the Declaration, maintenance, repair, upkeep and repainting of Lots, including all other improvements on a Lot, shall be the sole responsibility of each Owner. In the event any Owner fails to maintain his/her Lot or the exterior of his/her Lot or any other improvement on a Lot in a manner in keeping with the general neighborhood, the Association, shall have the right, through its agents or employees, to enter upon the subject property, and repair, maintain and restore the Lot, and any improvements thereon. The cost of such repair and maintenance shall be added to and become part of the assessment to which such Lot is subject. The Board in its sole discretion shall have the right to determine whether or not a Lot or the exterior of a Lot or any improvements on a Lot is in need of maintenance, repair or upkeep in order to conform to the standards of the general neighborhood, and the Board shall use a reasonably high standard to determine whether such maintenance, repair or upkeep is required so that the Lots as a whole will reflect a high pride of ownership.
- (e) All costs of enforcing the provisions of these Bylaws and the Declaration, including attorney fees and court costs, provided that all costs incurred for the enforcement of the provision of these Bylaws and the Declaration against any Owner shall be assessed especially against such Owner.

3.19 Rules and Regulations. The Board of Trustees shall have the power to adopt and publish rules, regulations and use restrictions governing the use of the Common Area, and regarding all areas of Association responsibilities. Such rules, regulations and use restrictions shall be binding upon all Members of the Association.

ARTICLE IV OFFICERS

4.1. Designation. The principal Officers of the Association shall be a President, a Vice President, a Secretary and Treasurer, all of whom shall be Trustees. The Board of Trustees may create such other offices as the affairs of the Association may require. During the Period of Declarant Control, all officers of the Association shall be appointed and removed by the Declarant. After termination of Declarant Control, all officers shall be elected by the Board of Trustees. After the expiration of the Period of Declarant Control, the President must be a member of the Board of Trustees. Any other Officers may, but need not be members of the Board of Trustees. Individuals shall not be compensated for serving as officers of the Association.

4.2. Election of Officers. The Officers of the Association shall be elected annually by the Board of Trustees at the first meeting of the Board of Trustees following each annual meeting of the Members.

4.3. Removal of Officers. Upon an affirmative vote of a majority of the Members of the Board of Trustees, any officer may be removed, either with or without cause, and his/her successor elected at any regular meeting of the Board of Trustees, or at any special meeting of the Board of Trustees called for such purpose.

4.4. President. The President shall be the chief executive officer of the Association. He/she shall preside at all meetings of the Association and the Board of Trustees. He/she shall have general and active management powers and duties including, but not limited to, the power to appoint committees from among the Owners from time to time as he/she may in his/her discretion decide is appropriate to assist in the conduct of the affairs of the Association.

4.5. Vice President. The Vice President shall take the place of the President and perform his/her duties whenever the President shall be absent or unable to act. If neither the President nor the Vice President is able to act, the Board of Trustees shall appoint some other Member of the Board to do so on an interim basis. The Vice President shall also perform such other duties shall from time to time be imposed upon him/her by the Board of Trustees.

4.6. Secretary. The Secretary shall keep the minutes of all meetings of the Board of Trustees and the minutes of all meetings of the Association. The Secretary shall have charge of such books and papers as the Board of Trustees shall direct, and shall in general perform all the duties incident to the office of Secretary.

4.7. Treasurer. The Treasurer shall have custody of and be responsible for Association funds and securities and shall be responsible for keeping full and accurate accounts of all receipts and disbursements in books belonging to the Association unless such function is delegated by the Board of Trustees to a trust company, a bank, or a professional property management company as authorized under these Bylaws. The Treasurer shall be responsible for the deposit of all monies and other valuable effects which he/she personally collects in the name, and to the credit of, the Association in such depositories as may from time to time be designated by the Board of Trustees. All funds of the Association over which the Treasurer as direct control shall only be withdrawn upon his/her signature. The Board may require the signature of one other Member of the Board for disbursement of Association funds.

**ARTICLE V
AMENDMENTS**

5.1 Bylaws. These Bylaws may be amended in whole or in part by the Association in a duly constituted meeting held for such purpose by a vote of the then Owners of not less than fifty-one percent (51%) of the total number of votes entitled to be cast at a meeting called for that purpose. During the Class B period, these Bylaws may be amended by a majority vote of the Board of Trustees.

**ARTICLE VI
INDEMNIFICATION OF TRUSTEES, OFFICERS AND MANGAGING AGENT**

6.1 Indemnification. The Association may indemnify every Trustee, Officer, Managing Agent, their respective successors, personal representatives and heirs, against all losses, costs and expenses, including attorney fees, reasonably incurred by him/her in connection with any action, suit or proceeding to which he/she may be made a party by reason of his/her being or having been a Trustee, Officer or Managing Agent of the Association, except as to matters as to which he/she shall be adjudged in such action, suit or proceeding to be liable for gross negligence or willful misconduct. All liability, loss, damage, cost and expense incurred or suffered by the Association by reason or arising out of or in connection this indemnification provision shall be treated and handled by the Association as a common expense; provided, however, that nothing in this Article contained shall be deemed to obligate the Association to indemnify any Member or Owners of a Lot who is or has been a Trustee or Officer of the Association with respect to any duties or obligations assumed or liabilities incurred by him/her under and by virtue of the Declaration.

**ARTICLE VII
GENERAL PROVISIONS**

7.1 Conflict. In the event of any conflict or inconsistency between the provisions of these Bylaws and the Declaration, the Declaration shall prevail and supersede such conflicting or inconsistent provisions of these Bylaws. In the event of any conflict or inconsistency between the provisions of these Bylaws and the Articles of Incorporation, the Articles of Incorporation shall prevail and supersede such conflicting or inconsistent provisions of these Bylaws. Neither the Association nor the Board of Trustees, nor any agent or employee shall be authorized or empowered to take any action inconsistent with the provisions of the Declaration.

7.2 Singular Includes Plural. Unless the context requires a contrary construction, the singular shall include the plural and the plural the singular; and the masculine, feminine or neuter shall each include the masculine, feminine and neuter.

7.3 Captions. All captions and titles used in these Bylaws are intended solely for the convenience or reference purposes only and in no way define, limit or describe the true intent and meaning of the provisions hereof.

IN WITNESS WHEREOF, the Association, a Utah nonprofit corporation, has hereunto caused its corporate name to be signed, its corporate seal affixed, and the same to be attested by the signature of its duly authorized officer this 30th day of May, 2007.

**TALISMAN HOMEOWNERS ASSOCIATION,
INC., a Utah Nonprofit Corporation**

By: 
Its Secretary