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Ent **1138622** Bk **1876** Pg **1800**  
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**Cache County, UT**  
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For IRONWOOD DEVELOPMENT

**DECLARATION OF PROTECTIVE EASEMENTS,  
COVENANTS, CONDITIONS AND RESTRICTIONS**

**OF**

**BLACK ROCK SUBDIVISION**

THIS DECLARATION OF PROTECTIVE EASEMENTS, COVENANTS, CONDITIONS AND RESTRICTIONS (this "Declaration") is made this 11<sup>th</sup> day of December, 2015, by Ironwood Development Group, L.C., a Utah limited liability company ("Declarant"), in its capacity as the owner and developer of the Black Rock Subdivision, an industrial development project in Smithfield, Utah, together with Vehicle I, LLC.

**ARTICLE I**

**PURPOSE AND EFFECTUATION**

1.01 Purpose. The purpose of this instrument is to provide for the preservation of the values of both Lots and Common Areas within the Black Rock Subdivision, in Smithfield, Utah, (the "Development"), and for the maintenance of the interior driveways, sidewalks, parking, amenities, open spaces, landscaping, trees and all other Common Areas therein.

1.02 Effectiveness. From and after the effective date hereof: (a) Each part of the Development and each Lot and Unit lying within the boundaries of the Development shall constitute but constituent parts of a single planned development; (b) The Development shall consist of the Lots and of the Common Areas which are described and depicted on the Plat; (c) The Declaration for the Development shall consist of this document as the same may be modified, amended, or supplemented in accordance with the provisions hereof; and (d) The initial Plat of the Development shall consist of the instrument identified as Black Rock Subdivision, Smithfield City, Cache County, Utah, and thereafter recorded concurrently herewith in the Public Records as the same may thereafter be amended.

**ARTICLE II**

**DEFINITIONS**

When used in this Declaration each of the following terms shall have the meaning indicated:

2.01 "Articles" shall mean and refer to the Articles of Incorporation of the Association, which are or shall be filed in the Office of the Division of Corporations and Commercial Code, State of Utah, as amended from time to time.

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2.02 "Assessment" shall mean a charge which is to be levied and assessed against each Owner of a Lot for Association expenses (including Common Expenses) as set forth in Article XIII. Assessments shall be allocated equally among the Lots.

2.03 "Association" shall mean Black Rock Subdivision, a Utah nonprofit corporation established or to be established, together with its successors and assigns.

2.04 "Board" shall mean the Board of Directors of the Association.

2.05 "Bylaws" shall mean and refer to the Bylaws of the Association.

2.06 "Common Areas" shall mean the Common Area Landscaping and the Vehicular and Pedestrian Areas, as set forth on Exhibit B.

2.07 "Common Area Landscaping" shall mean Landscaping located along the frontage of each Lot, as indicated on Exhibit B, attached hereto.

2.08 "Common Expenses" means the following:

(a) Reasonable costs, expenses, fees and other amounts (including appropriate reasonable reserves) paid or incurred by the Association in connection with the improvement, operation, management, maintenance and repair of the Common Area and the performance of the Association's duties and rights under Paragraph 5 or 6 or any other provisions of this Declaration, including, without limitation, all reasonable costs, expenses, fees and other amounts (including, without limitation, costs, expenses, fees and other amounts which are properly capitalized under generally accepted accounting principles) relating to utilities, cleaning, sweeping, ice, snow and rubbish removal, landscaping, resurfacing, restriping, replacing damaged or worn-out improvements located on the Common Area, licenses and permits, supplies, traffic regulation and control, fire, police protection and other security services, personnel (other than managerial personnel) necessary to perform any of the foregoing and depreciation allowance on any machinery or equipment owned by the Association and used exclusively in connection with such matters;

(b) Managerial, clerical and overhead costs, expenses, fees and other amounts; and

(c) Common Expenses due but not paid to the Association, which are determined by the Association not to be legally or practicably recoverable (after reasonable effort) from the responsible Owner, together with all interest on and costs and attorneys' fees incurred in connection with such unpaid Common Expenses; provided, however, that if such

unpaid Common Expenses are later received by the Association from or on behalf of the responsible Owner, any amounts previously paid by any other Owners pursuant to this Paragraph 2.08 shall be refunded pro rata to such other Owners.

Common Expenses shall be allocated equally among the Lots.

2.09. Reserved.

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2.10. "Common Utility Facilities" means all pipes, lines, wires, conduits and related facilities for electricity, natural gas, telephone, sewage, storm drainage (including water detention ponds), and all types of water that are intended, designed or used for the benefit of more than one Parcel, or of the Common Area. The Common Utility Facilities shall initially be installed by Declarant, and shall be maintained by the Association pursuant to the Association's Bylaws.

2.11 "Declarant" shall mean Ironwood Development Group, L.C., a Utah limited liability company, its successors and assigns, if any, as developers of the Development.

2.12 "Declaration" shall mean this Declaration of Protective Easements, Covenants, Conditions and Restrictions as the same may be supplemented or amended from time to time.

2.13 "Development" shall mean the Black Rock Subdivision as it exists at any given time.

2.14 "Landscaping" shall mean all outdoor areas in the Development landscaped with lawn, flowers, ground cover, shrubbery, trees, gardens or similar improvements, and the irrigation systems for such areas.

2.15 "Lot" shall mean and refer to any of the separately numbered, individually described lots within the Development as designated on the Plat.

2.16 "Managing Agent" shall mean any person or entity appointed or employed as Managing Agent by the Association.

2.17 "Mortgage" shall mean any recorded first mortgage or first deed of trust encumbering a Lot; and Mortgagee shall mean the mortgagee or beneficiary named in a Mortgage.

2.18 "Owner" shall mean any person who is the owner of record (as reflected by the Public Records) of a fee or undivided fee interest in any Lot, and any contract purchaser of any Lot. Notwithstanding any applicable theory relating to mortgages, no Mortgagee nor any trustee or beneficiary of a deed of trust or trust deed shall be an owner of a Lot unless such party acquires fee title thereto pursuant to foreclosure or sale or conveyance in lieu thereof. Declarant shall be an Owner with respect to each Lot owned by it. Multiple owners of a particular Lot shall be jointly and severally liable as to all responsibilities of an Owner.

2.19 “Pedestrian Areas” means all areas not dedicated to the City of Smithfield located in the Development at the time concerned that are designed to be used for pedestrian movement, including walkways and sidewalks, but excluding any platforms, ramps and docks comprising a portion of the exterior of any Buildings.

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2.20 “Plat” shall mean the final recorded plat map for the Black Rock Subdivision, and any supplemental maps pertaining to the Development and recorded or to be recorded in the office of the County Recorder of Cache County, State of Utah.

2.21 “Property” shall mean all land covered by this Declaration, including Common Areas and Lots and other land annexed to the Development as provided in this Declaration. The Property shall consist of the land described on Exhibit “A”, attached hereto.

2.22 “Project” shall mean the BLACK ROCK SUBDIVISION project.

2.23 “Public Records” shall mean the Office of the Cache County Recorder.

2.24 “Special Assessment” shall mean a charge against a particular Owner or his Lot for the purpose of reimbursing the Association for costs incurred in making improvements benefitting such Owner or Lot, bringing the Owner or his Lot or Unit into compliance with the provisions of this Declaration, the Articles, Bylaws or Rules and Regulations of the Association, or any other charge designated as a Special Assessment in this Declaration, the Articles, Bylaws or Rules and Regulations of the Association, together with costs, interest, attorney’s fees and other charges payable by such Owner pursuant to the provisions of this Declaration.

2.25 “Rules and Regulations” shall mean and refer to those Rules and Regulations authorized, adopted and promulgated to the Owners from time to time by the Board pursuant to Section 12.03.

2.26 “Unit” shall mean one or more fixed structures which is designed, constructed and intended for permanent use or occupancy as a place of business on a Lot, including anything located within or attached to said Unit (but designated and designed to serve only that Unit) such as appliances, electrical receptacles and outlets, air conditioning compressors and other air conditioning apparatus, platforms, ramps, docks and signage affixed to the outside of the Unit.

2.27 “Vehicular Areas” means all areas not dedicated to the City of Smithfield located in the Development at the time concerned that are designed to be used for the parking of motor vehicles or vehicular movement, including without limitation, parking areas and driveways, but excluding any platforms, ramps and docks comprising a portion of the exterior of any Buildings, all as set forth on Exhibit “B”.



### ARTICLE III

#### PROPERTY DESCRIPTION

3.01 Submission. The Property which initially is and shall be held, transferred, sold, conveyed, and occupied subject to the provisions of this Declaration consists of the real property described on Exhibit "A", attached hereto and made a part hereof.

3.02 Description of Improvements. The improvements included in this Project are now, or will be, located on the Property.

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3.03 Legal Status of Units. All Units are and shall be capable of being independently owned, encumbered, and conveyed.

3.04 Division into Lots. The Development is hereby divided into eleven (11) Lots, as set forth and described on the Plat, with appurtenant and equal rights and easements of use and enjoyment in and to the Common Areas, as well as appurtenant obligations pertaining to assessments, maintenance, etc., all as set forth in this Declaration.

### ARTICLE IV

#### DUTIES AND OBLIGATIONS OF OWNERS

4.01 Maintenance and Repairs. Except with respect to any improvements required by this Declaration to be maintained by the Association, each Owner shall at his own cost maintain his Lot and any improvements and Landscaping constructed thereon in good condition and repair at all times. In the event of the damage or destruction of any Unit, the Owner of the Lot on which such Unit is situated shall either rebuild the same within a reasonable time or shall raze the remains thereof so as to prevent the unsightly appearance and dangerous condition of a partially destroyed building in the Development. The painting or repainting, remodeling, rebuilding or modification of any Unit exteriors or parts thereof must first be submitted to and approved by the Design Review Committee pursuant to its procedures. No Owner of any Lot in the Development shall openly or wantonly neglect or fail to do everything possible to keep his Lot and Unit in good and attractive condition and repair at all times.

4.02 Owners Insurance. Notwithstanding any insurance coverage required to be provided herein by the Association, each Unit Owner shall be responsible to procure and maintain in force at his own cost hazard insurance on his Unit and personal contents and such liability coverage as may be customary in projects such as the Development and which is consistent with each Owner's individual circumstances.

4.03 Assessments and Rules Observance. Each Owner shall be responsible for the prompt payment of any Assessments provided for in this Declaration and for the observance of

the Rules and Regulations promulgated by the Association from time to time pursuant to the Bylaws.

4.04 Transfer of Interests. Except for obligations already accrued, an Owner who, for other than purposes of security, transfers all of his interests in his Lot to another, either voluntarily or by operation of law, shall be relieved of all obligations under this Declaration following such transfer.

## ARTICLE V

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### PROPERTY RIGHTS AND CONVEYANCES

5.01 Access Easements. Each Lot shall have appurtenant thereto and be benefitted by, and the Common Areas, including Vehicular and Pedestrian Areas lying within such Lot, shall be subject to and be burdened by, a perpetual, nonexclusive right-of-way and easement for vehicular and pedestrian ingress and egress and vehicular parking on, over and across those areas designed for such use. The use of such right of-way and easement shall be limited to parking for the public and general commercial purposes, which shall include reasonable and customary deliveries. Once constructed, no Vehicular or Pedestrian Areas shall be reconfigured so as to eliminate or substantially impair the right-of-way and easement created pursuant to this Paragraph 5.01 without the prior written approval of the Association.

5.02 Form of Conveyancing; Leases. Any deed, lease, mortgage, deed of trust, purchase contract or other instrument conveying or encumbering title to a Lot shall describe the interest or estate involved substantially as follows:

Lot No. \_\_\_\_ as identified in the Plat recorded in the office of the Cache County Recorder as Entry \_\_\_\_, Map Filing No. \_\_\_\_ contained within Plat \_\_\_\_ of Black Rock Subdivision, Cache County, Utah, SUBJECT TO the Declaration of Protective Easements, Covenants, Conditions and Restrictions of Black Rock Subdivision, recorded in the office of the Cache County Recorder as Entry \_\_\_\_, Book \_\_\_\_, at Page \_\_\_\_ (as said Declaration may have heretofore been amended or supplemented), TOGETHER WITH a right and easement of use and enjoyment in and to the Common Areas described, and as provided for, in said Declaration of Protective Easements, Covenants, Conditions and Restrictions (as said Declaration may have heretofore been amended or supplemented).

Whether or not the description employed in any such instrument is in the above-specified form, however, all provisions of this Declaration shall be binding upon and shall inure to the benefit of any party who acquires any interest in a Lot.

5.03 Title to Water Rights. Concurrent with or as soon as possible following the recordation of this Declaration and the Plat, Declarant shall convey to the Association title to the various water rights appurtenant to the Property, free and clear of all liens.

5.04 Limitation on Easement. Each Lot's appurtenant right and easement of use and enjoyment concerning the Common Areas shall be subject to the following:

(a) The right of the Association to govern by reasonable Rules and Regulations the use of the Common Areas so as to provide for the enjoyment of the Common Areas in a manner consistent with the collective rights of all of the Owners;

(b) The right of any governmental or quasi-governmental body having jurisdiction over the Property within the Development to enjoy access and rights of ingress and egress over and across any street or driveway, parking area, walkway, or open area contained within the Common Areas for the purpose of providing police and fire protection and providing any other governmental or municipal service; and

(c) The right of the Association to dedicate or transfer any part of the Common Areas to any public agency or authority for such purposes and subject to such conditions as may be deemed inconsequential and agreed to by the Association; provided that any such dedication or transfer deemed to have major consequences must first be assented to in writing by (i) the Mortgagee of each and every Mortgage that encumbers any Lot and (ii) the Owners of Lots to which at least sixty percent (60%) of the total votes in the Association appertain.

5.05 Utility Easements. Each Lot shall have appurtenant thereto and be benefitted by, and the Common Area shall be subject to and be burdened by, a perpetual, non-exclusive right-of-way and easement for the laying, construction, installation, operation, inspection, servicing, maintenance, repair, removal, alteration, enlargement, relocation and replacement of underground utility pipes, lines, wires, conduits and related facilities (including, without limitation, any underground Common Utility Facilities and, whether or not the same are part of the Common Utility Facilities, underground pipe, lines, wires, conduits and related facilities for electricity, natural gas, other fuel or power sources, telephone, sewage, storm drainage and all types of water) under, through and across the Common Area. If the rights provided for in this Paragraph 5.05 are exercised, the Owner intended to be served by the easement concerned shall pay the cost involved with such exercise and, at such Owner's sole cost, restore to their previous condition any Improvements which may be damaged as a result of such exercise. Each utility pipe, line, wire, conduit and related facility located within the Development shall be located underground to the extent reasonably possible. Further, if any Owner utilizes such easement rights with respect to his Lot or Unit, he shall be responsible for the restoration to its former state of any portion of the Common Areas which may have been disturbed or damaged as a result.

5.06 Fencing. Each Owner may, subject to the prior written consent of the Committee, install fencing on its Lot, but only to the extent that such fencing does not enclose any portion of the Common Areas or encroach, limit, or otherwise interfere with the Utility, Access and landscape maintenance easements described in this Article V.

5.07 Landscape Maintenance Easement. Each Owner, by acquiring or in any way becoming vested with his Owner's interest in a Lot, irrevocably grants to the Association an

easement to those portions of the Lot that are included in the Common Area. The purpose of such easement is to provide for uniform landscape maintenance on the Common Landscaping Area within the Development. The easement and the area covered thereby shall be deemed to be Common Area for such purposes only (but not for purposes of ownership, title, taxes, etc.).

## ARTICLE VI

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### USE RESTRICTIONS

6.01 Use of Common Area. The Common Areas shall be used only in a manner consistent with their community nature and with the use restrictions applicable to Lots and Units set forth herein.

6.02 Commercial Use. The Property is zoned for industrial and commercial uses and is restricted to such uses pursuant to applicable provisions of applicable municipal zoning ordinances. Each Lot, Unit and Owner are subject to the uses and restrictions imposed by such zoning, including parking restrictions, and no Lot or Unit shall be used, occupied, or altered in violation of such ordinances or so as to create a nuisance or to interfere with the rights of any other Owner.

6.03 Prohibited Use and Nuisances. The following uses and practices are specifically prohibited, in addition to any additional prohibitions which may, from time to time, be adopted by the Board in Rules and Regulations pursuant to the Bylaws, or prohibited by applicable zoning code:

(a) No parking of vehicles of any kind within the Development shall be permitted anywhere except the parking spaces located in the Vehicular Areas.

(b) No private outside television or radio aerial or antenna exceeding 30 inches are permitted.

(c) No Owner shall obstruct the Common Areas or any part thereof. No Owner shall store or cause to be stored in the Common Areas any property whatsoever, unless the Board of Directors shall consent thereto in writing.

(d) No Owner shall, without the prior written consent of the Board in each specific instance, make or cause to be made any alteration, addition, removal, or improvement in or to the Common Areas or any part thereof, or do any act that would impair the structural soundness or integrity of the Improvements, or jeopardize the safety of persons or property or impair any easement or hereditament appurtenant to the Development.

(e) No rubbish or debris of any kind may be placed or permitted to accumulate upon or adjacent to any Unit, and no odors may arise or emit from any Building, so as to render any Unit or any portion of the Development, or activity thereon, unsanitary,

unsightly, offensive or detrimental to any other Unit or Lot or any other property in the vicinity thereof or to the occupants of such other Unit or Lot. No other nuisance may be permitted to exist or operate upon any Lot so as to be offensive or detrimental to any other Parcel or other property in the vicinity thereof or its occupants. Normal construction, industrial and commercial activities, and parking in connection therewith may not be considered a nuisance or otherwise prohibited by this Declaration, but Lots and Units must be kept in a neat and tidy condition during construction periods, trash and debris may not be permitted to accumulate, and supplies of lumber and other building materials must be maintained only in areas approved by the Association. In addition, any construction equipment and building materials stored or kept on the Development may be kept only in areas approved by the Association.

6.04 Rules and Regulations. Each Owner shall comply strictly with all rules and regulations adopted by the Association for the governance of the Units, the Common Areas, and the Project, as such rules and regulations may be modified, amended, and construed by the Association in the sole discretion of its Board.

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6.05 Construction Period Exemption. During the course of actual construction of any permitted structures or improvements within the Project, the provisions, covenants, conditions, and restrictions contained in this Declaration shall be deemed waived to the extent necessary or convenient to permit such construction; provided, however, that during the course of such construction, nothing shall be done which will result in a violation of any said provisions, covenants, conditions, or restrictions upon completion of the construction.

6.06 Declarant's Right to Sell Lots. Until Declarant, or any entity designated by the Declarant in a writing delivered to the Association, has completed and sold all of the Lots within the Project, the Lot Owners who have purchased Lots from Declarant, or Declarant's successor in interest, shall not interfere with the completion of the improvements to be completed by Declarant, nor with the sale of all remaining Lots. Declarant, or any other entity designated by Declarant in a writing delivered to the Association, may make such use of the unsold Lots and the Common Areas as may facilitate such completion and sale, including but not limited to, the storage of equipment, the showing of the Lots, and the display of signs.

6.07 Signs. Signage must comply with Smithfield City sign ordinance. The placement of signs, graphics, or advertisements that are permanent in nature or represent advertisement for the Owner's business must be approved in writing by the Association.

## ARTICLE VII

### DESIGN REVIEW

7.01 Original Construction. Declarant intends to complete any improvements that it undertakes pursuant to applicable municipal approvals, planning and zoning approvals and permits, development agreements and construction plans and specifications (herein together

called "design guidelines"). All original construction by Declarant pursuant to the design guidelines, as they may be amended from time to time, shall be and hereby are approved.

7.02 Design Review Committee. The Board of Directors of the Association shall appoint a three-member Design Review Committee (the "Committee"), the function of which shall be to ensure that all improvements and Landscaping to be undertaken by the Owners within the Development harmonize with existing surroundings and structures, provided, Declarant's improvements and Landscaping shall not be subject to approval by the Committee. The Committee need not be composed of Owners. If such a Committee is not appointed, the Board itself, or certain appointed members thereof, shall perform the duties required of the Committee.

7.03 Submission to Committee. No improvements to be performed by an Owner, and no Unit, accessory of or addition to a Unit which is visible from the Common Areas shall be constructed or maintained, and no alteration, repainting, or refurbishing of the exterior of any Unit or any part thereof except glass surfaces shall be performed, unless complete plans and specifications therefor have first been submitted to and approved by the Committee. Ent 1138622 Bk 1876 Pg 1809

7.04 Standard. In deciding whether to approve or disapprove plans and specifications submitted to it, the Committee shall use its best judgment to insure that all improvements, construction, Landscaping, and alterations on Lots within the Development conform to and harmonize with the design guidelines and with existing surroundings and structures. Any structure hereafter constructed on any Lot in replacement of the structure previously located thereon shall be constructed in substantially the same configuration, location and architectural style and be approximately the same size as the prior structure; and, if the plans and specifications therefor meet such criteria, the Committee must approve the same.

7.05 Approval Procedure. Any plans and specifications submitted to the Committee shall be approved or disapproved by it in writing within 10 days after submission; provided, however, that plans and specifications for any replacement structure to be constructed in substantially the same configuration, location, architectural style and to be of substantially the same size as its predecessor shall be approved or disapproved within 5 days after submission. In the event the Committee fails to take any action within such specified periods, it shall be deemed to have approved the material submitted except in those respects that such material is not in conformity with the provisions of this Declaration, as to which respects it shall be deemed disapproved.

7.06 Construction. Once begun, any improvements, construction, Landscaping, or alterations approved by the Committee shall be diligently prosecuted to completion. If reasonably necessary to enable such improvement, construction, Landscaping, or alteration, the person or persons carrying out the same shall be entitled to temporarily use and occupy portions of the Common Areas in the vicinity of the activity provided that they shall promptly restore such areas to their prior condition when the use thereof is no longer required.

7.07 Liability for Damages. Neither the Committee nor any member thereof shall be held liable for damages by reason of any action, inaction, approval, or disapproval taken or given

without malice by such member or the Committee with respect to any request made pursuant to this Article VII.

7.08 Declarant's Obligation. Declarant hereby covenants in favor of each Owner that on the date on which this Declaration is recorded in the Public Records, all Lots and Common Areas of the Development will be located approximately in the locations shown on the Plat.

## ARTICLE VIII

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### INSURANCE

8.01 Liability Insurance. The Board shall procure and maintain from a company or companies holding a financial rating of Class A or better from Best's Key Rating Guide a policy or policies of public liability insurance to insure the Association, the Board, the Managing Agent and employees of the Association and the Owners against claims for bodily injury and property damage arising out of the conditions of the Common Areas or activities thereon under a Comprehensive General Liability form. Such insurance shall be for such limits as the Board may decide, but not less than those limits customarily carried in connection with properties of comparable character and usage in the county in which the Development is located nor less than \$1,000,000 for personal injury and property damage arising out of a single occurrence, such coverage to include protection against water damage liability, liability for non-owned and hired automobile, liability for the property of others and such other risks as shall customarily be covered with respect to property similar in construction, location and use. The policy shall contain a "Severability of Interest" endorsement which shall preclude the insurer from denying the claim of any Owner because of negligent acts of the Association or other Owners and a cross-liability endorsement pursuant to which the rights of the named insureds as between themselves are not prejudiced. The policy shall provide that the policy may not be canceled or substantially modified by the insurer unless it gives at least 30 days' prior written notice thereof to each insured. Any such coverage procured by the Board shall be without prejudice to the right of the Owners to insure their personal liability for their own benefit at their own expense.

8.02 Additional Insurance; Further General Requirements. The Board may also procure insurance which shall insure the Common Areas and the Association or the Owners and others against such additional risks as the Board may deem advisable. Insurance procured and maintained by the Board shall not require contribution from insurance held by any of the Owners or their Mortgagees. Each policy of insurance obtained by the Board shall, if reasonably possible, provide:

(a) A waiver of the insurer's right of subrogation against the Association, the Owners and their respective directors, officers, agents, employees, invitees and tenants;

(b) That it cannot be canceled, suspended or invalidated due to the conduct of any particular Owner or Owners;

(c) That it cannot be canceled, suspended or invalidated due to the conduct of the Association without a prior written demand that the defect be cured; and

(d) That any “no other insurance” clause therein shall not apply with respect to insurance maintained individually by any of the Owners.

8.03 Review of Insurance. The Board shall periodically review the adequacy of the Association’s insurance program.

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8.04 Owners Policies. Each Owner shall be responsible to purchase and maintain in force appropriate hazard, content and liability insurance. Such insurance shall be carried with a responsible company and shall afford at least the coverage provided by a “combined single limit” of not less than \$1,000,000.00 per occurrence, and not less than \$2,000,000.00 in the aggregate, for bodily injury, death and property damage. Each Owner’s policy shall name the Association as an additional insured. With the prior written approval of the Association, any Owner may comply with the requirements of this Paragraph 8.04 by the purchase of blanket coverage, and may elect such deductible provisions as are consistent with good business practices. Each Owner shall, on request, furnish the Association with a certificate issued by its insurer evidencing that insurance is in force which complies with the requirements of this Paragraph 8.04. The Association will not be required to file claims on any of its policies for any damage or liability claim that either should or would have been covered under any Owner’s policy.

8.05 Other Insurance Provisions. All insurance required pursuant to this Article VIII shall be written by insurers licensed in the State of Utah. Notwithstanding anything in this Article VIII to the contrary, any insurance required to be obtained by the Association pursuant to this Article VIII shall be required only to the extent that such coverage is reasonably obtainable at reasonable rates and is customarily obtained with respect to improvements or facilities having the same or similar characteristics of the Common Areas or risks being insured.

## ARTICLE IX

### RIGHTS OF MORTGAGEES

9.01 Title and Mortgagee Protection. A breach of any of the covenants, provisions, or requirements of this Declaration shall not result in any forfeiture or reversion of title or of any other interest in a Lot or any other portion of the Property. A breach of any of the covenants, provisions, or requirements of this Declaration shall not defeat, impair, or render invalid the lien of or other rights under any Mortgage. Unless and until it enters into possession or acquires title pursuant to foreclosure or any arrangement or proceeding in lieu thereof, any Mortgagee interested under any Mortgage affecting a Lot or any other portion of the Property shall have no obligation to take any action to comply with, and may not be compelled to take any action to comply with, any of the covenants, provisions, or requirements of this Declaration (other than those, if any, concerning a consent or approval to be given by a Mortgagee, in the event a Mortgagee’s failure to give the same is wrongful). No amendment to this Declaration shall in any



way affect the rights of any Mortgagee interested under a Mortgage which is in effect at the time of the amendment concerned or the rights of any successor in interest or title to such Mortgagee, either before or after such Mortgagee or its successor enters into possession or acquires title pursuant to foreclosure, or any arrangement or proceeding in lieu thereof, unless such Mortgagee has consented in writing to such amendment.

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9.02 Preservation of Common Area. The Common Areas shall remain substantially of the same character, type and configuration as when such Common Areas became part of the Development. Unless the Association shall receive the prior written approval of (a) all first Mortgagees of Lots and (b) the Owners of all Lots, the Association shall not be entitled by act or omission to abandon, partition, subdivide, encumber, sell, transfer or materially modify the Common Areas, except to grant reasonable easements for utilities and similar or related purposes.

9.03 Notice of Matters Affecting Security. The Association shall give written notice to any Mortgagee of a Lot requesting such notice whenever:

(a) There is any material default by the Owner of the Lot subject to the Mortgage in performance of any obligation under this Declaration or the Articles of the Association which is not cured within 60 days after default occurs; or

(b) Damage to the Common Areas from anyone occurrence exceeds \$100,000; or

(c) There is any condemnation or taking by eminent domain of any material portion of the Common Areas.

9.04 Notice of Meetings. The Board shall give to any Mortgagee of a Lot requesting the same, notice of all meetings of the Association; and such Mortgagee shall have the right to designate in writing a representative to attend any or all such meetings.

9.05 Right to Examine Association Records. Any Mortgagee shall, upon request, have the same right to inspect the books and records of the Association and receive financial statements as the Owner of the Lot securing the Mortgage.

9.06 Right to Pay Taxes and Charges. Mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may have become a charge against any portion of the Common Areas and may pay overdue premiums on insurance policies pertaining to the Common Areas, or secure new insurance coverage pertaining to the Common Areas on the lapse of a policy; and Mortgagees making such payments shall be owed immediate reimbursement therefor from the Association.

9.07 No Priority Accorded. No provision of this Declaration gives or may give a Lot Owner or any other party priority over any rights of Mortgagees pursuant to their respective

Mortgages in the case of a distribution to Lot Owners of insurance proceeds or condemnation awards for loss to or taking of Lots and/or the Common Areas.

9.08 Construction. In the event another provision or clause of this Declaration deals with the same subject matter as is dealt with in any provision or clause of this Article IX, the provision or clause which results in the greatest protection and security for a Mortgagee shall control the rights, obligations, or limits of authority, as the case may be, applicable to the Association with respect to the subject concerned.

**ARTICLE X  
Reserved.**

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**ASSOCIATION BYLAWS**

**THE ASSOCIATION'S BYLAWS ARE HEREBY EMBODIED IN THIS DECLARATION AS ARTICLES XI, XII AND XIII. THE MISCELLANEOUS PROVISIONS OF ARTICLE XIV OF THIS DECLARATION SHALL BE APPLICABLE TO BOTH THE DECLARATION AND BYLAWS PROVISIONS, AS THE CASE MAYBE.**

**ARTICLE XI**

**BYLAWS**

**MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION**

11.01 Membership. Every Owner upon acquiring title to a Lot shall automatically become a member of the Association and shall remain a member thereof until such time as his ownership of such Lot ceases for any reason, at which time his membership in the Association with respect to such Lot shall automatically cease and the successor Owner shall become a member. Membership in the Association shall be mandatory and shall be appurtenant to and may not be separated from the ownership of a Lot.

11.02 Voting Rights. The Association shall initially have two classes of voting rights, votes of both classes being of equal value as to all matters:

(a) Class A. Each Owner, including Declarant, shall be entitled to one vote for each Lot in which such member holds the interest required for Association membership.

(b) Class B. Declarant shall be the only member entitled to Class B voting rights which shall entitle Declarant to one vote for each Class A vote outstanding at such time (including those to which Declarant is entitled). Class B voting rights shall terminate and become a nullity on the earlier of:

(i) the expiration of 90 days following the date on which the total outstanding Class A voting rights, other than those held by Declarant, equal the total number of Class B voting rights to which Declarant is entitled pursuant to the provisions of Section 11.02(b); or

(ii) upon surrender of the Class B voting rights by Declarant in a writing delivered to the Association. Upon termination of the Class B voting rights, all members including Declarant shall have equal voting rights as to all matters.

11.03 Multiple Ownership Interests. In the event there is more than one Owner of a particular Lot, the vote relating to such Lot shall be exercised as such Owners may determine between or among themselves, but in no event shall more than the total number of votes appurtenant to such Lot be cast with respect to any issue. A vote cast at any Association meeting or by written consent by any of such Owners, whether in person or by proxy, shall be conclusively presumed to be the entire vote attributable to the applicable Lot unless an objection is made at the meeting or in writing by another Owner of the same Lot, in which event no vote will be counted with respect to such Lot except to determine the presence or absence of a quorum.

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11.04 Records of Ownership. Every Owner shall promptly cause to be duly filed of record in the Public Records the conveyance document (or in the case of a contract buyer, a copy of the sales contract or notice of interest) to him of his Lot and shall file a copy of such conveyance document with the Secretary of the Association, who shall maintain a record of ownership of the Lots. Any Owner who mortgages his Lot or any interest therein shall notify the Secretary of the Association of the name and address of the Mortgagee and also of the release of such Mortgage; and the Secretary of the Association shall maintain all such information in the records of ownership. The Association may at any time obtain and rely on information from the Public Records regarding the Owners and Mortgagees of Lots.

11.05 Place of Meeting. Meetings of the Association shall be held at such suitable place convenient to the Owners as may be designated by the Secretary of the Association in the notice thereof.

11.06 Annual Meetings. Annual meetings of the membership of the Association shall be held each year beginning in the year 2016 on such month, day and time as is set forth in the notice therefor; provided, that after the first such annual meeting, a month other than the month of the initial meeting may be chosen if it is deemed by the membership to be more convenient. At such annual meetings there shall be elected Directors of the Board, as needed, pursuant to the provisions of this Declaration. Financial and budget reports shall also be presented at such meetings as well as other business of the Association properly placed before each meeting.

11.07 Special Meetings. The President shall call a special meeting of the Owners as directed by a resolution of the Board or on a petition signed by Owners holding at least forty percent (40%) of the total votes of the Association and having been presented to the Secretary. No business shall be transacted at a special meeting except as stated in the notice therefor unless consented to by a majority of the Owners present, either in person or by proxy.

11.08 Notice of Meetings. The Secretary shall mail a notice of each annual or special meeting stating the purpose thereof as well as the time and place of the meeting to each Owner of record at least (10), but not more than twenty (20), days prior to such meeting. The mailing of notice by prepaid U.S. Mail or by delivery in person shall be considered notice served.

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11.09 Quorum. Except as provided in Section 13.10, Owners present in person or by proxy at any membership meeting duly called pursuant to notice shall constitute a quorum at all meetings, both annual and special; provided, however, that such Owners collectively be entitled to cast more than fifty percent (50%) of the total Association votes eligible to vote.

11.10 Adjourned Meetings. If any meeting of Owners cannot be organized because a quorum is not present, the Owners who are present either in person or by proxy may adjourn the meeting to a time not less than 48 hours nor more than 45 days from the time the original meeting was called, at which time the requirements for a quorum shall be reduced by one-half that required at the immediately preceding meeting.

11.11 Officers. The Association shall have a President, a Vice President, a Secretary and a Treasurer, all of whom shall be elected by and from the Board. The Board may, if needed, appoint an Assistant Secretary and Assistant Treasurer. Only the offices of Secretary and Treasurer may be filled by the same person. The officers shall be elected by the Board in an organizational meeting of the Committee immediately following each annual meeting of Owners at which the new Board has been elected; provided that until the Board is elected by the Owners pursuant to Section 11.13, the officers will be appointed by Declarant.

(a) President. The President shall be the chief executive officer of the Association and shall preside at all meetings of the Association and of the Board. The President shall have all of the general powers and duties that are usually vested in the office of president of a similar type association.

(b) Vice President. The Vice President shall take the place of the President and perform his duties whenever the President shall be absent or unable to act. If neither the President nor Vice President is able to act, the Board shall appoint some other member of the Board to do so on an interim basis. The Vice President shall also perform such other duties as shall from time to time be imposed on him by the Board.

(c) Secretary. The Secretary shall keep the minutes of all meetings of the Board and the minutes of all meetings of the Association. He shall have charge of such books and records as the Board may direct and he shall, in general, perform all duties incident to the office of secretary of a similar type association.

(d) Treasurer. The Treasurer shall have responsibility for Association funds and shall be responsible for keeping full and accurate accounts of all receipts and disbursements in books belonging to the Association. He shall be responsible for the deposit of all money and

any other valuable effects in the name and to the credit of the Association in such depositories as may from time to time be designated by the Board.

11.12 Initial Composition of Board. Declarant alone shall have the right to select the initial Board of Directors which may be composed of three Directors, none of whom need be Owners. Such right of the Declarant to appoint the Board shall remain in Declarant until the termination of the Class B voting rights as provided in Section 11.02(b) at which time the Association shall proceed to elect members of the Board in accordance with the Association's Bylaws as set forth in Section 11.13.

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11.13 Board of Directors: Composition, Election, Vacancies. The Association, through its Board of Directors, is responsible for the maintenance of any Common Areas, the determination, imposition and collection of Assessments, the enforcement of the provisions of this Declaration and, in general, the preservation of the quality and character of the Development to the benefit and general welfare of the Owners. Subject to the provisions of Section 11.12, the Board shall be composed of three Directors, each of whom shall be an Owner (or an officer, director, or agent of a non-individual Owner). The Owners may increase the maximum number of Directors to five at any meeting of Association members. At the first meeting of Owners to elect a Board of Directors two shall be elected to a three-year term, two to a two-year term, and one to a one-year term. As Directors' terms expire, new Directors shall be elected for three-year terms and shall serve on the Board until their successors are elected. Vacancies on the Board shall be filled by the remaining Directors from among the Owners and such appointees shall serve until the next annual meeting of Owners when their successors shall be elected for the unexpired term of the Trustee they were appointed to replace.

11.14 Indemnification of Board. Each of the Directors shall be indemnified and held harmless by the Lot Owners against all costs, expenses, and liabilities whatsoever (excluding fraudulent and/or criminal actions) including, without limitation, attorneys fees reasonably incurred in connection with any proceeding in which such Trustee may become involved by reason of being or having been a member of said Board.

11.15 Board Meetings, Quorum, Board Action. The Board of Directors may establish its rules for meetings, whether regular or special. A majority of current Board members shall constitute a quorum. The action of a majority or those Directors attending a meeting at which a quorum is present shall be sufficient to constitute the action of the Board. Action by consent shall require the unanimous consent of all current Directors.

## ARTICLE XII

### BYLAWS

#### DUTIES AND POWERS OF THE ASSOCIATION

12.01 Duties of the Association. Without limiting any other duties which may be imposed upon the Association by its Articles of Incorporation, Bylaws or the Declaration, the

Association shall have the obligation and duty to do and perform each and every one of the following for the benefit of the Owners and the maintenance and improvement of the Development:

- (a) The Association shall accept all Owners as members of the Association.
- (b) The Association shall accept title to the water shares appurtenant to the Property. Enr 1138622 Bk 1876 Pg 1817
- (c) The Association shall maintain, repair, replace and landscape the Common Areas.
- (d) In connection with its duties to maintain and repair Common Areas, the Association will provide maintenance and repair upon the private roads and drives within the Development, including all Vehicular Areas and Pedestrian Areas.
- (e) The Association shall obtain and maintain in force the policies of insurance required of it by the provisions of the Declaration.
- (f) The Association may employ a responsible corporation, partnership, firm, person or other entity as the Managing Agent to manage and control the Common Areas, subject at all times to direction by the Board, with such administrative functions and powers as shall be delegated to the Managing Agent by the Board. The compensation of the Managing Agent shall be reasonable as specified by the Board. Any agreement appointing a Managing Agent shall be terminable by either party, with or without cause and without payment of any termination fee, upon 30 days I written notice thereof; and the term of any such agreement shall not exceed one year, renewable by agreement of the parties for successive periods of one year each. Any Managing Agent may be an agent or employee of the Association or an independent contractor, as the Board deems appropriate.

12.02 Powers and Authority of the Association. The Association shall have all the powers set forth in its Articles of Incorporation and Bylaws, together with its general powers as a nonprofit corporation, and the power to do any and all things which may be authorized, required or permitted to be done by the Association under and by virtue of the Declaration or the Bylaws, including the power to levy and collect assessments as hereinafter provided. Without in any way limiting the generality of the foregoing, the Association shall have the following powers:

- (a) At any time and from time to time and without liability to any Owner for trespass, damage or otherwise, to enter upon any Lot for the purpose of maintaining and repairing such Lot or any improvement thereon if for any reason the Owner fails to maintain and repair such Lot or improvement as required herein. The Association shall also have the power and authority from time to time in its own name, on its own behalf, or in the name and behalf of any Owner or Owners who consent thereto, to commence and maintain actions and suits to

restrain and enjoin any breach or threatened breach of the Declaration, the Bylaws or any Rules and Regulations promulgated by the Board, or to enforce by mandatory injunction or otherwise all of the provisions of the Declaration, the Bylaws and such Rules and Regulations.

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(b) In fulfilling any of its duties under the Declaration, including its duties for the maintenance, repair, operation or administration of the Common Areas and Lots (to the extent necessitated by the failure of the Owners of such Lots) or in exercising any of its rights to construct improvements or other work upon any of the Common Areas, the Association shall have the power and authority to obtain, contract and pay for, or otherwise provide for:

(i) Construction, maintenance, repair and landscaping of the Common Areas on such terms and conditions as the Board shall deem appropriate;

(ii) Such insurance policies or bonds as the Board may deem appropriate for the protection or benefit of the Association, the members of the Board and the Owners;

(iii) Such Common Area related utility services as the Board may from time to time deem necessary or desirable;

(iv) The services of architects, engineers, attorneys and certified public accountants and such other professional or nonprofessional services as the Board may deem desirable;

(v) Fire, police and such other protection services as the Board may deem desirable for the benefit of the Owners or any portion of the Development; and

(vi) Such materials, supplies, furniture, equipment, services and labor as the Board may deem necessary.

12.03 Association Rules and Regulations. The Board from time to time, subject to and not inconsistent with the provisions of the Declaration or the Bylaws, may adopt, amend, repeal and enforce reasonable Rules and Regulations governing, among other things: (a) the use of the Common Areas; (b) the use of any streets, driveways or parking areas owned by the Association; (c) the collection and disposal of refuse; (d) uses and nuisances pertaining to the Development; and (e) all other matters concerning the use and enjoyment of the Property and the conduct of Owners and their invitees within the Development.

12.04 Limitation of Liability. No member of the Board acting in good faith shall be personally liable to any Owner, guest, lessee or any other person for any error or omission of the Association, its representatives and employees, the Board, any committee of the Board, or the Managing Agent.

### ARTICLE XIII

#### BYLAWS ASSESSMENTS

13.01 Personal Obligation and Lien. Each Owner shall, by acquiring or in any way becoming vested with his interest in a Lot, be deemed to covenant and agree to pay to the Association the Common Expenses allocated to such Owner's Lot, any special assessments described in this Article, together with late payment fees, interest and costs of collection, if and when applicable. All such amounts shall be, constitute, and remain: (a) a charge and continuing lien upon the Lot with respect to which such assessment is made until fully paid; and (b) the personal, joint and several obligation of the Owner or Owners of such Lot at the time such assessment falls due. No Owner may exempt himself or his Lot from liability for payment of assessments by waiver of his rights in the Common Areas or by abandonment of his Lot. In a voluntary conveyance of a Lot, the grantee shall be jointly and severally liable with the grantor for all such unpaid assessments, late payment fees, interest and costs of collection, including reasonable attorney's fees, which shall be a charge on the Lot at the time of the conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor.

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13.02 Purpose of Assessments. Assessments levied by the Association shall be used exclusively for the purpose of promoting the Development, the interests of the Owners therein, and paying costs properly incurred by the Association (including without limitation Common Expenses). Without limiting the generality of the foregoing, the use made by the Association of funds obtained from assessments may include, but shall not be limited to, payment of the cost of: taxes; insurance premiums on policies required of the Association hereunder; maintenance, repair, and improvement of the Common Areas; establishment and funding of a reserve to cover major repair or replacement of improvements within Common Areas; and any expense necessary or desirable to enable the Association to perform or fulfill its obligations, functions or purposes under the Declaration, its Articles of Incorporation, Bylaws or Rules and Regulations.

13.03 Annual Assessments. Annual assessments shall be computed and assessed against all Lots in the Development based upon advance estimates of the Association's cash requirements to provide for payment of common costs, including Common Expenses, as set forth in Section 13.02.

13.04 Annual Budget. Annual assessments shall be determined on the basis of a fiscal year ending December 31; provided the first fiscal year shall begin on the date of recordation of this Declaration in the Public Records. On or before December 15 of each fiscal year the Association shall prepare and furnish to each Owner an operating budget for the upcoming fiscal year. The operating budget for the first fiscal year shall be prepared and furnished to each Owner within 30 days of such Owner's initial purchase. The budget shall itemize the estimated cash requirements for such fiscal year, anticipated receipts, reserves, and any deficit or surplus from the prior operating period. The budget shall serve as the supporting document for the annual



assessments for the upcoming fiscal year and as the major guideline under which the Development shall be operated during such annual period.

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13.05 Notice and Payment of Annual Assessments. Except with respect to the fiscal periods ending December 31, 2015 and December 31, 2016, the Association shall notify each Owner as to the amount of the annual assessment against his Lot on or before December 15 of the year preceding the year for which such annual assessment is made. Each annual assessment shall be payable in 12 equal monthly installments, one such installment due on the first day of each calendar month during the fiscal year to which the assessment relates; provided, however, the annual assessments for the fiscal period ending December 31, 2015 shall be based upon such portion of the calendar year 2015 as follows the date of recordation of the Declaration in the Public Records and shall be payable in such installments and at such times as the Association, in the sole discretion of its Board of Directors, may determine. The failure of the Association to give timely notice of any annual assessment as provided herein shall not be deemed a waiver of or modification in any respect of the provisions of the Declaration, or a release of any Owner from the obligation to pay such assessment or any other assessment; but the date when the payment shall become due in such case shall be deferred to a date 15 days after notice of such assessment shall have been given to the Owner in the manner provided in Section 14.01.

13.06 Initial and Transfer Fees. In addition, each Owner (other than Declarant), shall be required to prepay at the time of purchase of his Unit, whether as a first time or subsequent Owner, a sum equal to six times the then monthly installment of the annual assessment, which sum shall be in addition to any proration of assessment which may be due for the month in which such purchase takes place. Such fees shall become part of the Association's general fund to be utilized as necessary.

13.07 Reserved.

13.08 Special Assessments. The Association may levy special assessments for the purpose of defraying, in whole or in part: (a) any expense or expenses not reasonably capable of being fully paid with funds generated by annual assessments; or (b) the cost of any construction, reconstruction, or unexpectedly required addition to or replacement of amenities, infrastructure or improvements within the Common Areas.. Such special assessments must be assented to by at least sixty percent (60%) of the votes of the membership at a meeting duly called for such purpose. Written notice setting forth the purpose of such meeting shall be sent to all Owners at least 10 but not more than 30 days prior to the meeting date.

13.09 Reserved.

13.10 Quorum Requirements. The quorum at any Association meeting required for any action authorized by Section 13.08, above, shall be as follows: At the first meeting called, the presence of Owners or proxies entitled to cast sixty percent (60%) of the total votes of the Class A membership shall constitute a quorum. If a quorum is not present at the first meeting or any subsequent meeting, another meeting may be called (subject to the notice requirements set forth in Section 13.08, above) at which a quorum shall be one-half (½) of the quorum which was

required at the immediately preceding meeting. No such subsequent meeting shall be held less than 48 hours nor more than 45 days following the immediately preceding meeting.

13.11 Special Assessment. In addition to the annual assessment and any special assessment authorized pursuant to Section 13.08, above, the Board may levy at any time Special Assessments (a) on every Lot especially benefited (i.e., benefited to a substantially greater degree than any other Lot) by any improvement to adjacent roads, sidewalks, planting areas or other portions of the Common Areas; (b) on every Lot the Owner or occupant of which shall cause any damage to the Common Areas necessitating repairs; and (c) on every Lot as to which the Association shall incur any expense for maintenance or repair work performed, or enforcement action taken, pursuant to any of the provisions of the Declaration. The aggregate amount of any such Special Assessment shall be determined by the cost of such improvements, repairs, maintenance or enforcement action, including all overhead and administrative costs, and all attorney's fees and costs, and shall be allocated among the affected Lots according to the magnitude of special benefit or cause of damage or maintenance or repair work or enforcement action, as the case may be, and such assessment may be made in advance of the performance of work. If a special benefit arises from any improvement which is part of the general maintenance or operation obligations of the Association, it shall not give rise to a Special Assessment against the Lots benefited.

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13.12 Certificate Regarding Payment. Upon the request of any Owner or prospective purchaser or encumbrancer of a Lot and upon the payment of a reasonable fee to the Association to cover administrative costs, the Association shall issue a certificate stating whether or not payments of all assessments respecting such Lot are current and, if not, the amount of the delinquency. Such certificate shall be conclusive in favor of all persons who rely thereon in good faith.

13.13 Effect of Nonpayment; Remedies. Any assessment (whether annual, special or Special Assessment) not received within 10 days of the date on which it or any installment thereof becomes due shall be subject to a late charge not to exceed 5% thereof, which, together with interest and costs of collection, shall be, constitute, and remain a continuing lien on the affected Lot. If any assessment is not received within 10 days after the date on which it becomes due, the amount thereof shall also bear interest from the due date at the rate of one percent (1%) per month; and the Association may bring an action against the Owner who is personally liable therefor or may foreclose its lien against the Lot pursuant to the provisions of the Utah Code, 1953, as amended, applicable to the exercise of powers of sale in deeds of trust, by foreclosure as a mortgage or in any other manner permitted by law. Any judgment obtained by the Association in connection with the collection of delinquent assessments and related charges shall include reasonable attorney's fees, court costs and every other expense incurred by the Association in enforcing its rights. Failure of the Association to promptly enforce any remedy granted pursuant to this Section 13.13 shall not be deemed a waiver of any such rights.

13.14 No Abatement. No diminution or abatement of any assessments under the Declaration shall be claimed or allowed for inconvenience, annoyance or discomfort arising from (a) any construction (or lack of construction) within the Development; (b) the making of (or

failure to make) any repairs or improvements to or the maintenance of any Common Areas of the Development, or any part thereof; or (c) from any action taken to comply with the provision of the Declaration or with the laws, ordinances, regulations, rules, or orders of any governmental authority.

#### ARTICLE XIV

#### MISCELLANEOUS

Ent 1138622 Bk 1876 Pg 1822

14.01 Notices. Any notice required or permitted to be given to any Owner under the provisions of this Declaration shall be deemed to have been properly furnished if delivered or mailed, postage prepaid, to the person named as the Owner at the latest address for such person, as reflected in the records of the Association at the time of delivery or mailing. Any notice required or permitted to be given to the Association may be given by delivering or mailing the same to the Managing Agent or any officer or Trustee of the Association. Any notice required or permitted to be given to the Design Review Committee may be given by delivering or mailing the same to the Managing Agent or the Association or any member of the Design Review Committee.

14.02 Amendment. This Declaration may be amended (as opposed to terminated) by an instrument recorded in the Public Records, which is executed either by Owners who collectively hold at least sixty percent (60%) of the total outstanding votes in the Association or by the Association which shall certify that the required sixty percent (60%) vote was obtained in a Member meeting or by consent and is so documented in the records of the Association. The foregoing right of amendment shall, however, be subject to the right to supplement this Declaration in the manner and to the extent provided for in Article III of this Declaration. No amendment to any provision of this Declaration which has the effect of diminishing or impairing any right, power, authority, privilege, protection, or control accorded to Declarant (in its capacity as Declarant), or to a Mortgagee, Owner or the Association shall be accomplished or effective unless the instrument through which such amendment is purported to be accomplished is specifically consented to in writing by Declarant or by such Mortgagee, Owner or the Association, as the case may be.

14.03 Consent in Lieu of Vote. In any case in which this Declaration requires for authorization or approval of a transaction the assent or affirmative vote of a stated percentage or number of votes outstanding in the Association or of the Owners, such requirement may be fully satisfied by obtaining, with or without a meeting, consents in writing to such transaction from Owners entitled to cast at least the stated percentage or number of all membership votes then outstanding in the Association, unless a higher percentage or a greater number is required by law. The following additional provisions shall govern any application of this Section 14.03:

(a) All necessary consents must be obtained prior to the expiration of 90 days after the first consent is given by any Owner;

(b) The total number of votes required for the applicable authorization or approval shall be determined as of the date on which the last consent is signed;

(c) Any change in ownership of a Lot which occurs after a consent has been obtained from the Owner thereof shall not be considered or taken into account for any purpose; and

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(d) Unless the consent of all Owners whose memberships are appurtenant to the same Lot is secured, the consent of none of such Owners shall be effective.

14.04 Declarant's Rights Assignable. All or any portion of the rights of Declarant under this Declaration or in any way relating to the Property or the Additional Land may be assigned.

14.05 Interpretation. The captions which precede the Articles and Sections of this Declaration are for convenience only and shall in no way affect the manner in which any provision hereof is construed. Whenever the context so requires, the singular shall include the plural, the plural shall include the singular, and any gender shall include both other genders. The invalidity or unenforceability of any portion of this Declaration shall not affect the validity or enforceability of the remainder hereof, which shall remain in full force and effect. The laws of the State of Utah shall govern the validity, construction and enforcement of this Declaration.

14.06 Condemnation. If at any time or times an insubstantial or minor part of the Common Areas or any part thereof shall be taken or condemned by any authority having the power of eminent domain, all compensation and damages shall be payable to the Association and shall be used by the Association to the extent necessary for restoring or replacing any improvements on the remainder of the Common Areas. In the event of any other taking or condemnation, the interests of the Association, the Owners and Mortgagees shall be as they may appear.

14.07 Covenants to Run with Land. This Declaration and all the provisions hereof shall constitute covenants to run with the land or equitable servitudes, as the case may be, and shall be binding upon and shall inure to the benefit of Declarant, all parties who heretofore acquired or hereafter acquire any interest in a Lot, their respective grantees, transferees, heirs, devisees, personal representatives, successors, and assigns. Each Owner or occupant of a Lot or Unit shall comply with, and all interests in all Lots or in the Common Areas shall be subject to, the terms of this Declaration and the provisions of any Rules and Regulations, agreements, instruments, and determinations contemplated by this Declaration. By acquiring any interest in a Lot or Unit, the party acquiring such interest consents to, and agrees to be bound by, each and every provision of this Declaration.

14.08 Enforcement of Restrictions. The Association, any Owner or any Mortgagee shall have the right to exercise or seek any remedy at law or in equity to interpret, to enforce compliance with or to obtain redress for violation of this Declaration. The prevailing party in an action for the interpretation of, the enforcement of or to obtain redress for violation of any

provisions of this Declaration shall be entitled to collect court costs and reasonable attorney's fees.


14.09 Duration/Termination. This Declaration shall remain in effect until such time as there is recorded in the Public Records, following the approval of the applicable municipalities authorizing such termination, an instrument of termination which is executed by seventy-five percent (75%) of the total outstanding votes of the Association, plus the Mortgagee of each and every Lot.

Ent 1138622 Bk 1876 Pg 1824

14.10 Effective Date. This Declaration, any amendment or supplement hereto, and any amendment or supplement to the Plat shall take effect upon its being filed for record in the Public Records.

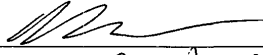
EXECUTED by Declarant on the day and year first above written.

IRONWOOD DEVELOPMENT GROUP, L.C.,  
a Utah limited liability company

  
By: Jeff Jackson, Manager

ACKNOWLEDGED AND AGREED:

REAL ESTATE INVESTMENT VEHICLE 1, LLC  
a Utah limited liability company

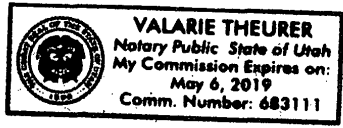
  
By: Allan Burningham, Manager

State of Utah )  
County of Cache ) §

On this 11<sup>th</sup> day of Dec, in the year 2015, before me Valarie Theurer,  
a notary public, personally appeared Jeff Jackson

proved on the basis of satisfactory evidence to be the person(s) whose name(s) (is/are)  
subscribed to this instrument, and acknowledged (he/she/they) executed the same. Witness my  
hand and official seal.

Valarie Theurer  
NOTARY PUBLIC



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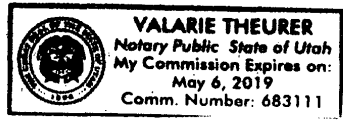
Ent 1138622 Bk 1876 Pg 1825

State of Utah )  
County of Cache ) §

On this 11<sup>th</sup> day of Dec, in the year 2015, before me Valarie Theurer,  
a notary public, personally appeared Allen Burningham

proved on the basis of satisfactory evidence to be the person(s) whose name(s) (is/are)  
subscribed to this instrument, and acknowledged (he/she/they) executed the same. Witness my  
hand and official seal.

Valarie Theurer  
NOTARY PUBLIC



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**EXHIBIT A**

PROPERTY DESCRIPTION

BLACK ROCK SUBDIVISION, PER PLAT RECORDED AUGUST 25, 2015 AS ENTRY NO. 1131682, BOOK 2015 PAGE 2852, CACHE COUNTY RECORDER'S OFFICE.

Ent **1138622** Bk **1876** Pg **1826**