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ERNEST D ROWLEY, WEBER COUNTY RECORDER  
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Chad R. Salmon  
1786 West 1180 South  
Woods Cross, Utah 84087

**First Amended and Restated  
Declaration of Protective Easements,  
Covenants, Conditions and Restrictions  
(Including Unit Owner Association By-Laws)**

of

**Stoney Brook Cottages Phase 1**

and

**Stoney Brook Cottages Phase 2**

**Planned Residential Unit Development**

This First Amended and Restated Declaration of Protective Easements, Covenants Conditions and Restrictions of Stoney Brook Cottages Phase 1 and Stoney Brook Cottages Phase 2 Planned Residential Unit Development amends and restates the Declaration of Protective Easements, Covenants, Conditions and Restrictions of Stoney Brook Cottages Phase 1 Planned Residential Unit Development which was recorded with the Weber County Recorder's Office on August 9, 2006 as Entry No. 2199694.

**WITNESSETH:**

Whereas, Declarant is the owner of that certain parcel of real property situated in Weber County, state of Utah, and more particularly described in Article II herein.

Now, therefore, Declarant hereby declares that all of the Properties described herein shall be held, sold and conveyed subject to the following

protective easements, covenants, conditions and restrictions, which are for the purpose of protecting the value and desirability of, and which shall run with, the Properties and be binding on all parties having any right, title or interest in the Properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

## ARTICLE I – DEFINITIONS

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

**Section 1.1.** “Association” shall mean and refer to Stoney Brook Cottages, Inc., a Utah Non-Profit Corporation, its successors and assigns.

**Section 1.2.** “Declarant” shall mean and refer to Stoney Brook Cottages Company CS, LLC.

**Section 1.3.** “Owner” shall mean and refer to the record owner, whether one or more persons or entities, of fee simple title to any Unit which is part of the Properties, including contract sellers, but excluding those having an interest merely as security for the performance of an obligation.

**Section 1.4.** “Declaration” shall mean and refer to this First Amended and Restated Declaration of Protective Easements, Covenants, Conditions and Restrictions of Stoney Brook Cottages Phase 1 and Stoney Brook Cottages Phase 2 Planned Residential Unit Development Subdivision, and all amendments hereto.

**Section 1.5.** “Unit” shall mean and refer to each of the forty-six (46) individual townhouse units within the Stoney Brook Cottages Phase 1 and each of the forty-three (43) individual townhouse units within Stoney Brook Cottages Phase 2, Planned Residential Unit Development Subdivision, as depicted in the Plat.

**Section 1.6.** “Properties” shall mean and refer to that certain real property located in Roy City, Weber County, Utah and more particularly described in Article II below, which comprises the land upon which the Stoney Brook Cottages Phase 1 and the Stoney Brook Cottages Phase 2 Planned Residential Unit Development Subdivision are located, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

**Section 1.7.** “Management Committee” and “Committee” shall mean and refer to the Board of Directors of the Association, or a management committee specifically designated as such by the Board of Directors of the Association. The Committee shall have and exercise the rights, powers and responsibilities designated and delegated in this Declaration, the Articles of Incorporation, the By-Laws, and the rules and regulations of the Association.

**Section 1.8.** “Common Area” shall mean and refer to those areas located

within the Properties, and the improvements appurtenant thereto, which are designated and reserved for the common use and enjoyment of all Owners of Units and their families or guests. The Common Area is more particularly described as the Properties, minus the Units and the Limited Common Areas.

**Section 1.9.** "Manager" shall mean and refer to the person or entity designated by the Board of Directors or the Management Committee to manage the Project.

**Section 1.10.** "Plat" shall mean and refer to the official subdivision plat of Stoney Brook Cottages Phase 1 Planned Residential Unit Development Subdivision, and the Stoney Brook Cottages Phase 2 Planned Residential Unit Development Subdivision filed for record in the Official Records of the Weber County Recorder.

**Section 1.11.** "Limited Common Area" shall mean or refer to those areas located within the Properties, and the improvements appurtenant thereto, which are designated and reserved for the use and enjoyment of each respective Unit Owner to the exclusion of the other Unit Owners. In general, the Limited Common Area is comprised of the front yard of a Unit, which is an area the approximate width of the Unit and approximately 20 feet long, and the back yard of a Unit, which is an area the approximate width of the Unit and approximately 9.75 to 10 feet long. The Limited Common Area and the Units they are associated with are depicted jointly on the Plat as the "Private Lots."

**Section 1.12.** "Mortgage" shall mean and refer to a deed of trust as well as a mortgage.

**Section 1.13.** "Mortgagee" shall mean and refer to the beneficiary under a deed of trust as well as the mortgagee under a mortgage.

**Section 1.14.** "Person" shall mean and refer to any legal entity or natural person.

**Section 1.15.** "Project" shall mean and refer to the Stoney Brook Cottages Phase 1 Planned Residential Unit Development Subdivision, which presently consists of forty-six (46) individual Units, and the Stoney Brook Cottages Phase 2 Planned Residential Unit Development Subdivision which will consist of forty-three (43) individual Units.

## **ARTICLE II – GRANT AND SUBMISSION**

Declarant hereby submits the Properties situated in the city of Roy, Weber County, Utah, and more particularly described herein to the provisions of this Declaration, and to the protective easements, covenants, conditions, and restrictions hereunder:

08-467-0001 THRU 0047<sup>7</sup> Phase 1:

BEGINNING AT THE SOUTHEAST CORNER OF COZYDALE RETREAT PHASE 1, ACCORDING TO THE OFFICIAL PLAT THEREOF, AND A POINT ON THE WEST LINE OF 1750 WEST STREET, SAID POINT LIES NORTH 89 DEGREES 54' 20" EAST 1179.68 FEET ALONG THE SECTION LINE AND SOUTH 1076.56 FEET FROM THE NORTHWEST CORNER OF SECTION 13, TOWNSHIP 5 NORTH, RANGE 2 WEST, SALT LAKE BASE AND MERIDIAN (MONUMENT LOCATION PRIOR TO 1981) AND RUNNING THENCE ALONG SAID COZYDALE RETREAT PHASE 1 THE FOLLOWING (2) COURSES: NORTH 56 DEGREES 02' 13" WEST 148.01 FEET AND NORTH 56 DEGREES 50' 33" WEST 127.66 FEET; THENCE ALONG SAID COZYDALE RETREAT PHASE 1 AND COZYDALE RETREAT PHASE 2, ACCORDING TO THE OFFICIAL PLAT THEREOF, SOUTH 75 DEGREES 16' 03" WEST 138.37 FEET; THENCE ALONG SAID COZYDALE RETREAT PHASE 2 NORTH 71 DEGREES 37' 30" WEST 135.59 FEET THENCE SOUTH 13 DEGREES 41' 11" EAST 55.36 FEET; THENCE SOUTH 36 DEGREES 11' 54" WEST 122.40 FEET; THENCE SOUTH 35 DEGREES 39' 32" EAST 57.02 FEET; THENCE SOUTH 35 DEGREES 48' 43" WEST 73.13 FEET TO THE NORTH LINE OF BERWICK VILLAGE P.U.D. ACCORDING TO THE OFFICIAL PLAT THEREOF, THENCE ALONG THE NORTHERLY LINE OF SAID BERWICK VILLAGE P.U.D. THE FOLLOWING (4) COURSES: SOUTH 54 DEGREES 02' 51" EAST 175.92 FEET AND SOUTH 57 DEGREES 42' 57" EAST 80.42 FEET AND SOUTH 89 DEGREES 19' 41" EAST 176.01 FEET AND SOUTH 86 DEGREES 30' 32" EAST 111.05 FEET TO A POINT ON THE WEST LINE OF 1750 WEST STREET; THENCE NORTH 14 DEGREES 06' 32" EAST 261.07 FEET ALONG SAID WEST LINE TO THE POINT OF BEGINNING. (Contains 3.87 Acres.)

and

Phase 2:

PART OF THE NORTHWEST  $\frac{1}{4}$  OF SECTION 13, TOWNSHIP 5 NORTH, RANGE 2 WEST, SALT LAKE BASE & MERIDIAN, U.S. SURVEY; BEGINNING AT THE NORTHWEST CORNER OF STONEY BROOK COTTAGES PHASE 1, PRUD RUNNING THENCE NORTH 36 DEGREES 46' 09" WEST 442.27 FEET TO A POINT ON THE SOUTH LINE OF SHEFFIELD COMMONS CONDOMINIUMS ACCORDING TO THE OFFICIAL PLAT THEREOF, THENCE SOUTH 89 DEGREES 54' 20" WEST 181.03 FEET

ALONG SAID SOUTH LINE TO A POINT THAT IS 247.50 FEET FROM THE WEST LINE OF THE NORTHWEST ¼ OF SAID SECTION 13 THENCE SOUTH 00 DEGREES 35' 13" WEST 381.50 FEET ALONG A LINE THAT IS 247.50 FEET FROM SAID WEST LINE, THENCE SOUTH 53 DEGREES 28' 54" EAST 37.52 FEET TO THE NORTH LINE OF ROYAL GARDEN APARTMENTS, ACCORDING TO THE OFFICIAL PLAT THEREOF, THENCE SOUTH 89 DEGREES 07' 47" EAST 97.86 FEET ALONG SAID NORTH LINE, THENCE SOUTH 29 DEGREES 31' 10" EAST 53.01 FEET TO THE NORTHWEST CORNER OF BERWICK VILLAGE PUD ACCORDING TO THE OFFICIAL PLAT THEREOF; THENCE ALONG THE NORTHERLY LINE OF SAID BERWICK VILLAGE PUD SOUTH 54 DEGREES 43' 14" EAST 258.10 FEET AND SOUTH 54 DEGREES 02' 51" EAST 19.91 FEET, THENCE NORTH 35 DEGREES 48' 43" EAST 73.13 FEET, THENCE NORTH 35 DEGREES 39' 32" WEST 57.02 FEET, THENCE NORTH 36 DEGREES 11' 54" EAST 122.40 FEET, THENCE NORTH 13 DEGREES 41' 11" WEST 55.36 FEET TO BEGINNING. 08-103-0022 (Contains 3.01 Acres.)

### 7 ARTICLE III – PROPERTY RIGHTS

**Section 3.1. Owners' Easements of Enjoyment.** Every Owner of a Unit in the Properties shall have a right and easement of enjoyment in and to the Common Area now existing and in all future phases which easement is appurtenant to and shall pass with the title to every Unit, subject to the following provisions:

(A) the right of the Association to suspend the voting rights of an Owner for any period during which any assessment against his Unit remains unpaid, and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations; and

(B) the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members of the Association.

**Section 3.2. Delegation of Use.** Any Owner may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Area to the members of his family, his tenants or contract purchasers who reside in the Owner's Unit.

### ARTICLE IV – COVENANTS, CONDITIONS AND RESTRICTIONS

The foregoing submission of Properties is made upon and subject to the following covenants, conditions and restrictions:

**Section 4.1. Name.** The Project, as submitted to the provisions of this

Declaration, shall be known as "Stoney Brook Cottages" or "Stonybrook Cottages," which currently consists of forty-six (46) individual residential Units in Phase 1 and which will include forty-three (43) additional individual residential Units in Phase 2.

**Section 4.2. Description of Units.** The Project consists of individual Units, each of which will include the improvements depicted on the Plat and/or authorized by the City of Roy, Utah. All authorized improvements shall be constructed in a style and of materials architecturally compatible with the other improvements on the Project. The Units, their locations on the Properties, and their approximate dimensions, are depicted on the Plat.

**Section 4.3. Common Area and Facilities.** The facilities appurtenant to the Common Area and Limited Common Area include the roads, gutters, lawn areas, landscaping and public parking stalls, if any, and any other facilities appurtenant to the Common Area and Limited Common Area as depicted on the Plat.

**Section 4.4. Units and Interest in Common Area are Inseparable.** A Unit shall not be separated from its percentage of undivided interest in the Common Area and Limited Common Area, its non-exclusive use of the Common Area, and its exclusive use of the Limited Common Area, even though not specifically mentioned in the instrument of transfer or conveyance. Such interest, non-exclusive use, and exclusive use, shall automatically transfer when the title to the Unit transfers.

**Section 4.5. Square Footage of Units, Ownership Interest in Common Area, and Responsibility for Common Expenses.** The square footage of the Units in the Project varies from approximately 1,300 square feet to approximately 1,697 square feet. Because this variance is not particularly large, each Unit in the Project shall be deemed to have a 1/89 undivided interest in the Common Area and Limited Common Area and shall bear an equal responsibility for the common expenses of the Project. Each Unit, therefore, shall be assessed the same amount as other Units in the Project. The Association shall be the record owner of the Common Area and Limited Common Area and Declarant shall transfer such record ownership to the Association before any Units are conveyed to third parties.

**Section 4.6. Easements and Encroachments.** If any portion of the Common Area and Limited Common Areas, or any fences or walls adjacent to a Unit boundary in the Project, are partially or totally destroyed and then rebuilt or improved, maintained, painted, or repaired, encroachments shall be permitted as may be necessary, desirable or convenient upon the Units and the Limited Common Area designated to the Units, and easements for such encroachments shall exist for such periods of time as may be necessary, desirable or convenient. In addition, encroachments upon the Units and the Limited Common Area

designated to the Units, shall be permitted to the Association or its designates as may be necessary, convenient or desirable for the inspection, installation, placement, removal, replacement, repair and maintenance of anything for which the Association is responsible. If any Unit encroaches upon any other Unit, any other Unit's Limited Common Area, or the Common Area as a result of settling or shifting, a valid easement for the encroachment shall exist so long as the encroachment lasts.

**Section 4.7. Common Walls.** Partition walls, i.e. walls common to two Units, shall be deemed to be part of the Unit the wall separates and each Unit shall be deemed to include as part thereof the entire area within and extending to the center of such partition wall.

**Section 4.8. Maintenance of Common Area and Limited Common Area.** The Association shall be responsible for maintaining the Common Area and Limited Common Area, including but not limited to the lawns, roads, driveways, landscaping, fences, roofs, exterior walls, foundations, rain gutters, sprinkler systems, clubhouses (if any), etc. The cost of such maintenance shall be shared equally by each Unit Owner as a part of the Common Area expense. However, any damage caused to the Common Area and Limited Common Area by the negligent or intentional misconduct of the Unit Owner or the family members, guests, or invitees of the Unit Owner shall be the responsibility of such Unit Owner.

## **ARTICLE V – MEMBERSHIP AND VOTING RIGHTS**

**Section 5.1. Members.** Every Owner of a Unit which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Unit which is subject to assessment.

**Section 5.2. Voting Rights.** The Association shall initially have two classes of voting membership:

**Class A.** Class A members shall be all Owners, with the exception of the Declarant. Class A members shall be entitled to one vote for each Unit owned. When more than one person holds an interest in any Unit, all such persons shall be members. The vote for such a Unit shall be exercised as the multiple Owners determine; but in no event shall more than one vote be cast with respect to any one Unit.

**Class B.** Class B members shall be the Declarant. Class B members shall be entitled to three (3) votes for each Unit owned. Class B membership shall automatically convert to Class A membership and shall cease to exist as Class B membership when either one of the following two events first occurs: (a) when the total votes existing in the Class A membership equals the total votes existing in the

Class B membership; or (b) on January 1, 2012.

## **ARTICLE VI – GOVERNING BODIES**

**Section 6.1. Owners Association.** The administration of the Project shall be governed by this Declaration, the Articles of Incorporation and the By-Laws of the Association, and the rules and regulations promulgated by the Association. An Owner of a Unit shall automatically become a member of the Association upon the receipt of title to a Unit and shall remain a member for the period of his ownership.

**Section 6.2. Association Management.** The Association shall conduct the general management, operation and maintenance of the Project, the Common Area and the Limited Common Area, and the enforcement of the provisions of this Declaration, the Articles of Incorporation and By-Laws of the Association, and the rules and regulations adopted thereunder.

## **ARTICLE VII – LIMITATION OF USE OF UNITS AND COMMON AREA**

**Section 7.1. Purposes.** Every Unit within the Project shall be used for single family residential living purposes. No Units within the Project shall be occupied or used for commercial or business purposes; provided, however, that nothing in this paragraph shall be deemed to prevent (a) Declarant or its duly authorized agents from using any Unit owned by Declarant as a sales office, sales model, or property management office.

**Section 7.2. No Obligations.** Except for portions of the Project expressly designated on the Plat, there shall be no obstructions of the Common Area, and nothing shall be stored in the Common Area without the prior consent of the Board of Directors or Management Committee.

**Section 7.3. Alterations to Units.** No Unit shall be altered without the prior written approval of the Board of Directors, Management Committee, Architectural Committee or other duly authorized agent of the Board of Directors. In the event such alternations set forth in the preceding sentence require Roy City approval, the Owner of the applicable Unit shall, in addition to obtaining the prior written approval of the Board of Directors or its agent, obtain proper approval from Roy City. All duly approved alterations shall be completed in a workmanlike manner, within a reasonable period of time, at a minimal inconvenience to the Owner's neighbors, and all such alterations shall be architecturally compatible with the rest of the Project.

**Section 7.4. No Offensive Activity.** Owners shall not permit illegal, noxious, annoying or offensive activity, or activity which becomes a nuisance to other Owners, to be carried on in his Unit, in the Common Area or in the Limited



Common Area. Owners shall keep their Units and Limited Common Areas in a clean and orderly condition at all times.

**Section 7.5. Construction In Common Area and Units.** Nothing shall be altered or removed from the Common Area or the Limited Common Area except upon the prior written consent of the Board of Directors, or its duly authorized agent. In the event any alteration or removal from the Common Area or the Limited Common Area requires the consent of Roy City, the Owner shall obtain such consent before starting such alteration or removal.

**Section 7.6. Rules.** The Board of Directors or its duly authorized agent is authorized to adopt rules for the use of the Common Area, the Limited Common Areas, and the Units. All such rules shall be in writing and shall be furnished to the Owners.

**Section 7.7. Dumping of Garbage.** Except in areas designated by the Board of Directors or its duly authorized agent, no portion of any Unit, the Common Area or the Limited Common Area shall be used as a dumping ground for trash, garbage or other waste, nor shall any such refuse be incinerated within the Properties. All trash, garbage or other waste temporarily kept within the Units shall be stored in sanitary containers only, and shall be regularly delivered to authorized places where removal of such trash, garbage and other waste shall frequently occur. Each Unit shall be kept free of long-term trash, garbage or other waste by the Owner of each Unit.

**Section 7.8. Parking of Vehicles.** No vehicles shall be parked overnight on any of the streets in the Project or on the Common Area (except in designated parking stalls) or Limited Common Area (except in the Owner's driveway). In addition, no boats, campers, trailers, large trucks, motor homes, or similar large items shall be parked or stored on the Common Area or Limited Common Area, except in accordance with the rules and regulations adopted by the Board of Directors or its duly authorized agent. In the event there are areas designated as "No Parking," the Board of Directors shall strictly enforce the designation.

## **ARTICLE VIII – COVENANT FOR MAINTENANCE ASSESSMENTS**

**Section 8.1. Creation of the Lien and Personal Obligation of Assessments.** The Declarant, for each Unit located within the Project, and each succeeding Owner of any Unit by accepting title to such Unit, hereby covenants and agrees to pay the annual and special assessments for maintenance of, and capital improvements to, the Common Area and the Limited Common Area. The annual and special assessments, together with late charges, costs and reasonable attorney's fees incurred in collecting delinquent payments, shall be a charge against and lien upon the delinquent Owner's Unit. Each such assessment,

together with late charges, costs and reasonable attorney's fees incurred in collecting delinquent payments, shall also be the personal obligation of the Owner who was the Owner of such Unit at the time when the assessment or other sums became due. The personal obligation for delinquent assessments shall not pass to the delinquent Owner's successor in ownership but may remain an encumbrance against the Unit if a lien for such assessments and other sums was duly recorded with the Weber County Recorder's Office before the successor owner obtained title to the Unit and such lien was not extinguished by the foreclosure sale of a prior lien against the Unit.

**Section 8.2. Purpose of Assessments.** The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents of the Units and for the maintenance and improvement of the Common Area, the Limited Common Area, and those improvements for which the Association is responsible.

**Section 8.3. Special Assessments.** In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, maintenance, repair or replacement of a capital improvement upon the Common Area, the Limited Common Areas, and those improvements for which the Association is responsible. Special assessments shall have the approval of more than fifty percent (50%) of the votes of each class of members who are present in person or by proxy at a meeting duly called for this purpose wherein a quorum is present.

**Section 8.4. Notice and Quorum Required for Any Action.** Written notice of any meeting called for the purpose of taking any action authorized herein, with the purpose or purposes of such meeting clearly described therein, shall be sent to all members not less than twenty (20) days before such a meeting is held. At the first such meeting, a quorum will be deemed to be constituted if fifty percent (50%) or more of the votes of each class of membership is present either in person or through a written proxy on behalf of a member in form approved by the Board of Trustees or its duly authorized agent. If the required quorum is not present for the first such meeting, a second meeting may be called for the exact same purpose as the first meeting, subject to the same notice requirement, and the required quorum at the second meeting shall be forty percent (40%) or more of the votes of each class of membership present in person or through a written proxy on behalf of a member in form authorized by the Board of Directors or its duly authorized agent. If the required quorum is not present for the second such meeting, a third meeting may be called for the exact same purpose as the first and second meetings, subject to the same notice requirement, and the required quorum at the third meeting shall be thirty percent (30%) or more of the votes of each class

of membership present in person or through a written proxy in form authorized by the Board of Directors or its authorized agent. If the required quorum is not present for the third meeting, no subsequent meeting shall be called for the exact same purpose as the first, second and third meetings for a period of 120 days following the date of the third meeting. If a fourth meeting or subsequent meetings are called for the exact same purpose after the passage of the 120-day period, the required quorum at the fourth or subsequent meetings shall be thirty percent (30%) or more of the votes of each class of membership present in person or through a written proxy in form authorized by the Board of Directors or its authorized agent. If the purpose of any subsequent meeting is not exactly the same as the purpose of the previous meeting, then such a meeting shall be deemed to be a first meeting for purposes of the quorum requirements.

**Section 8.5. Uniform Rate of Assessment.** Both annual and special assessments must be fixed at the same rate for all Units and may be collected on a monthly or other periodic basis as determined by the Board of Directors or its authorized agent.

**Section 8.6. Date of Commencement of Annual Assessments, Due Dates.** The annual assessment provided for herein shall commence as to all Units on the first day of the month following the conveyance of the Common Area and the Limited Common Area to the Association. No assessments shall be levied against a Unit until a certificate of occupancy has been issued for the Unit. The first annual assessment for a Unit shall be prorated according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment for each Unit and how such assessment is to be paid at least thirty (30) days in advance of the date the first payment is due. Written notice of the annual assessment and the manner of payment shall be sent to the Owner of each Unit. The Association shall, upon demand and for a reasonable charge, furnish a certificate signed by the Board of Directors or its authorized agent setting forth whether payment of the assessment on a specified Unit is delinquent. A properly executed certificate as to the status of assessments on a Unit is binding upon the Association as of the date of its issuance.

**Section 8.7. Effect of Nonpayment of Assessments; Remedies.** Any assessment not paid within ten (10) days after the due date shall incur a late charge of ten percent (10%) of the delinquent payment, which late charge shall be due and payable on the day it is incurred. In addition to assessing a late charge, the Board of Directors or its authorized agent may send a letter to a delinquent Owner demanding that payment be made, file a lien against a delinquent Owner's Unit, bring an action at law against the delinquent Owner personally to collect the delinquent payment, foreclose lien previously filed against a Unit in accordance with Utah law, or take any other action permitted by law to collect delinquent

payments. No Owner may waive or otherwise avoid liability for assessments or other sums due by the non-use of the Common Area or Limited Common Area or by the abandonment of the Unit. All costs and fees incurred in the Association's attempt to collect the indebtedness from the delinquent Owner in any manner permitted by Utah law, including but not limited to reasonable attorney's fees and costs, shall be borne by the delinquent Owner and shall be payable upon demand.

**Section 8.8. Protection of Mortgagees by Subordination of Association Lien to Mortgages.** Notwithstanding anything contained herein to the contrary, the lien of the Association arising from the failure of a Unit Owner to timely pay assessments or late charges shall be deemed to be subordinate to the lien of any mortgage against the Unit which was duly recorded with the Weber County Recorder's Office prior to the recording of the Association's lien. Consequently, the foreclosure sale of any Unit by the beneficiary of the first mortgage shall extinguish the lien of the Association and any purchaser of the Unit at such a foreclosure sale shall have no responsibility for assessments and late charges which became due prior to such foreclosure sale. The foreclosure sale of the first mortgage shall not relieve the new Owner of the Unit following the foreclosure sale from liability for non-payment of any assessment or late charge which became due and payable after the date of the foreclosure sale nor from the attachment of a lien against the Unit for such delinquencies. Furthermore, the extinguishing of the Association's lien against the Unit following the foreclosure sale by the first mortgage holder shall not impair the Association's right to proceed as an unsecured creditor against the person who owes the indebtedness in any manner permitted by Utah law.

## ARTICLE IX – INSURANCE

**Section 9.1. Liability Insurance.** The Board of Directors or its authorized agent shall obtain and maintain at all times, a liability insurance policy or policies insuring the Board of Directors, those authorized agents who act on behalf of the Board of Directors, the Association, and the Unit Owners against any liability to the public arising from the ownership and/or use of the Common Area and Limited Common Area or the performance by such people of their duties on behalf of the Board of Directors or the Association. Such policy or policies shall be issued by such insurance companies and with such limits of liability as determined by the Board of Directors or its authorized agents. Each such policy or policies shall be issued on a comprehensive liability basis and shall provide a cross-liability endorsement wherein the rights of named insureds under the policy or policies shall not be prejudiced with respect to his, her or their action against another named insureds.

**Section 9.2. Fire and Extended Coverage Insurance.** The Association shall maintain in full force and effect a policy or policies of fire insurance with extended coverage, vandalism and malicious mischief endorsements, for the full insurable replacement value of the Common Area, Limited Common Area, and those improvements for which the Association is responsible. Such policy or policies shall be written in the name of, and the proceeds thereof shall be payable to, the Association. Such policy or policies shall not be cancelled except after at least thirty (30) days' prior written notice to the Board of Directors or its authorized agent.

**Section 9.3. Other Insurance.** In addition to the insurance set forth above, the Board of Directors or its authorized agent may obtain insurance for such other risks of a similar or dissimilar nature as are or shall hereafter customarily be covered with respect to the Common Area, Limited Common Areas, and those improvements for which the Association is responsible.

**Section 9.4. Individual Owner's Insurance.** Each Owner shall maintain in full force and effect a policy or policies of fire insurance with extended coverage, vandalism and malicious mischief endorsements, for the full insurable replacement value of the Unit. Such policy or policies shall not be cancelled except upon at least thirty (30) days' prior written notice to the Board of Directors or its authorized agent.

## **ARTICLE X – ARCHITECTURAL CONTROL**

No building, fence, wall or other structure shall be maintained upon the Properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors or by an architectural committee composed of three (3) or more representatives appointed by the Board of Directors. In the event the Board of Directors or its designated committee fails to approve or disapprove any plans and specifications so submitted within thirty (30) days after submission, approval shall not be required and this Article will be deemed to have been fully complied with. In the event any improvement to the Properties requires the approval of Roy City, the Owner shall not commence the construction of any such improvement until Roy City and the Board of Directors or its authorized agent have granted written approval. Once duly approved, all such improvements shall be constructed in a good and workmanlike manner in accordance with such approvals.

## ARTICLE XI – GENERAL PROVISIONS

**Section 11.1. Enforcement.** The Board of Directors or its authorized agent, or any Owner, shall have the right to enforce all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration in any manner permitted by law. The failure to enforce any right herein contained shall in no event be deemed a waiver of the right to do so thereafter.

**Section 11.2. Severability.** Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect.

**Section 11.3. Amendment.** The vote of more than fifty percent (50%) of those votes in attendance either in person or by proxy in form authorized by the Board of Directors or its authorized agent at a meeting duly called for that purpose where a quorum is present shall be required to amend this Declaration, the By-Laws or the instruments associated with the Association or the Properties. Any amendment to the Declaration, By-Laws, or other instruments associated with the Association or the Properties shall be publicly acknowledged through the recordation of an instrument executed by the Board of Directors or in such other manner as may be required by law. In any such instrument, the Board of Directors shall certify that the vote required by this paragraph for amendment has occurred.

**Section 11.4. Interpretation.** The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development and operation of a Planned Residential Unit Development with two phases. Failure to enforce any provision hereof shall not constitute a waiver of the right to enforce said provision or any other provision hereof.

**Section 11.5. Counterparts.** This Declaration may be executed simultaneously in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

**Section 11.6. Governing Law and Jurisdiction.** Interpretation and enforcement of this Declaration shall be according to the laws of the state of Utah. Jurisdiction and venue of any dispute arising hereunder shall be in Weber County, Utah or in the U.S. District Court for the District of Utah.

**Section 11.7. Default.** If any party governed by the terms of this Declaration defaults under any provision hereof, that defaulting party shall pay all costs and attorney's fees incurred by any other party to enforce the provisions hereof, whether such costs and attorney's fees were incurred through the filing of a formal lawsuit or otherwise.

**Section 11.8. Effective Date.** This Declaration shall take effect upon recording.

**Section 11.9. Paragraphs, Numbers and Headings.** Headings and paragraph numbers have been inserted herein solely for convenience and reference and shall not be construed to affect the meanings, constructions or effect hereof.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand on this 31 day of January 2008.

Stoney Brook Cottages Company CS, LLC

By: Chad R. Salmon

Chad R. Salmon

Its: Manager

STATE OF UTAH :  
: SS.  
COUNTY OF Davis :

On the 31 day of January, 2008, personally appeared before me Chad R. Salmon, the Manager of Stoney Brook Cottages Company CS, LLC who by me being duly sworn, did say that he is the Manager and authorized signatory of the Declarant named above, and acknowledged to me that the within and foregoing instrument was signed by him.

Suzanne M. Chowen  
NOTARY PUBLIC



## Exhibit A

### BY-LAWS

#### OF

### STONEY BROOK COTTAGES ASSOCIATION, INC.

#### A NON-PROFIT CORPORATION

#### ARTICLE I

##### NAME AND LOCATION

The name of the Corporation is Stoney Brook Cottages Association, Inc., hereinafter referred to as the "Association," or the "Corporation." The initial principal office of the Corporation in the State of Utah shall be located at 1786 West 1180 South, Woods Cross, Utah 84087, but meetings of members and trustees may be held at such places within the State of Utah, Counties of Weber or Davis, as may be designated by the Board of Directors.

#### ARTICLE II

##### DEFINITIONS

Section 2.1 "Association" shall mean and refer to Stoney Brook Cottages Association, Inc., a Utah Non-Profit Corporation, and its successors and assigns.

Section 2.2 "Properties" shall mean and refer to that certain real property upon which 46 townhouses are currently located in Phase 1 and 43 townhouses will be located in Phase 2, in the City of Roy, County of Weber, State of Utah, and more particularly described in the Declaration.

Section 2.3 "Common Area" shall mean those areas located within the Properties which are to be owned by the Association for the common use and enjoyment of all of the Owners and their families, guests and invitees, and which are designated as such on the Plat, including but not limited to streets, lawns, landscaping, gutters, etc. together with all amenities and improvements thereon and all easements appurtenant thereto including but not limited to private utility lines and easements, landscape easements and personal property owned by the Association when the context so requires. Easements reserved for the Association shall also be made available for the use and benefit of the members of the Association.

Section 2.4 "Limited Common Area" shall mean or refer to those limited common areas and facilities designated on the Plat as "Private Lots" (excluding therefrom the Units) which are reserved for the use and benefit of each respective Unit to the exclusion of the other Unit Owners.

Section 2.5 "Unit" shall mean and refer to each of the 46 individual townhouse units located within Phase 1 and each of the 43 individual townhouse units located within Phase 2 of the Project, as shown on the Plat of the recorded subdivision of the Properties.

Section 2.6 "Owner" or "Owners" when referring to all or more than one Owner as the context requires, shall mean and refer to the person who is the Owner of record (in the office of the County Recorder of Weber County, Utah) of a fee or an undivided interest in any Unit. Notwithstanding any applicable theory relating to a mortgage, deed of trust, or like instrument, the term "Owner" shall not mean or include a mortgagee or a beneficiary or trustee under a deed of trust unless and until such party has acquired title pursuant to foreclosure or any arrangement or proceeding in lieu thereof.

Section 2.7 "Declarant" shall mean and refer to Stoney Brook Cottages Company CS, LLC, and its



successors and assigns, if such successors or assigns should acquire from the Declarant all of its rights and obligations of development.

**Section 2.8** "Declaration" shall mean and refer to the First Amended and Restated Declaration of Protective Easements, Covenants, Conditions and Restrictions of Stoney Brook Cottages, Phase 1, and Stoney Brook Cottages Phase 2, a Planned Residential Unit Development, and any amendments thereto, recorded in the Office of the Recorder of Weber County, State of Utah.

**Section 2.9** "Member" shall mean and refer to those persons entitled to membership in the Association, as provided in the Declaration.

**Section 2.10** "Project" shall mean and refer to the Stoney Brook Cottages Phase 1, and Stoney Brook Cottages Phase 2, a Planned Residential Unit Development Subdivision, currently consisting of forty-six (46) individual Units in Phase 1, and which shall be expanded in Phase 2 to include an additional forty-three (43) individual Units.

**Section 2.11** "Plat" shall mean and refer to the official subdivision plat of Stoney Brooke Cottages, Phase 1, a Planned Residential Unit Development Subdivision, and Stoney Brook Cottages, Phase 2, a Planned Residential Unit Development Subdivision recorded in the Official Records of the Weber County Recorder, currently consisting of forty-six (46) individual Units in Phase 1 and which will include an additional forty-three (43) individual Units in Phase 2.

**Section 2.12** All other terms of art used herein but not defined herein shall have the meaning set forth for such terms in the Declaration. In the event that the definitions set forth herein conflict with the definitions of those same terms set forth in the Declaration, the definitions set forth in the Declaration shall control.

### ARTICLE III

#### MEETING OF MEMBERS AND VOTING RIGHTS

**Section 3.1. Membership.** Every Owner of a Unit which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Unit which is subject to assessment.

**Section 3.2. Voting Rights.** The Association shall have two classes of voting membership:

**Class A.** Class A members shall be all Owners, with the exception of the Declarant, and shall be entitled to one vote for each Unit owned. When more than one person holds an interest in any Unit, all such persons shall be members. The vote for such Unit shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any one Unit.

**Class B.** Class B members shall be the Declarant and shall be entitled to three (3) votes for each Unit owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier: (a) when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership; or (b) on January 1, 2012.

**Section 3.3. Voting at Meeting.** At any meeting of Owners, the Owner of each Unit shall be entitled to one vote. Since an Owner may be more than one person, if only one of such person is present at a meeting of the Association that person shall be entitled to cast the vote appertaining to that Unit. But if more than one of such persons is present, the votes appertaining to that Unit shall be cast only in accordance with the agreement of a majority of them, and such consent shall be conclusively presumed if any one of them purports to cast the votes appertaining to that Unit without protest being made forthwith by any of the others to the person presiding over the meeting. The vote allocated to each Unit may not be divided between Owners of such Unit or with respect to matters before the Association; the vote appurtenant to any one Unit shall be voted in one block. Any Owner may attend and vote at such meeting in person or may submit a written proxy, in form acceptable to the Board of Directors, or its authorized agent. All proxies must be in writing and duly signed and dated by the Owner and filed

with the Secretary of the Corporation. Every proxy shall be revocable either in writing or by personal appearance and shall be automatically void upon conveyance of the Unit to a third party.

**Section 3.4. Annual Meeting.** An annual meeting of Owners shall be held at a place determined by the Board of Directors on the third Saturday of February, or at such other time not more than thirty (30) days before or after that date, as may be designated by written notice of the Board of Directors, or their designate, delivered to the Owners not less than twenty (20) days before said meeting. The items to be considered at the annual meeting shall be described in the Notice. At the annual meeting, elections shall be held to elect members of the Board of Directors, financial reports shall be given and such other business conducted as may be properly presented.

**Section 3.5. Special Meetings.** Special Meetings of the Unit Owners may be called at any time by written notice signed by a majority of the Board of Directors, or by Owners having at least twenty-five percent (25%) of the total votes, delivered not less than twenty (20) days prior to the date fixed for said meeting. Special Meetings shall be held on the Project or at such other location in Weber or Davis Counties as the Board of Directors or Owners, as the case may be, shall designate. The Notice of said Special Meeting shall describe in detail the business to be conducted at such meeting and no business which was not described in the Notice shall be conducted at such Special Meetings.

**Section 3.6. Quorum.** At the first annual or special meeting of the Owners, a quorum will be deemed to be constituted if fifty percent (50%) or more of the votes of each class of membership is present either in person or through a written proxy entitled to vote on behalf of a Member in form approved by the Board of Directors. If the required quorum is not present for the first such meeting, a second meeting may be called for the exact same purpose as the first meeting, subject to the same notice requirement, and the required quorum at the second meeting shall be forty percent (40%) or more of the votes of each class of membership being present in person or through a proper written proxy in form authorized by the Board of Directors. If the required quorum is not present for the second such meeting, a third meeting may be called for the exact same purpose as the first and second meetings, subject to the same notice requirement, and the required quorum at the third meeting shall be thirty percent (30%) or more of the votes of each class of membership being present in person or through a proper written proxy in form authorized by the Board of Directors. If the required quorum is not present for the third meeting, no subsequent meeting shall be called for the exact same purpose as the first, second and third meetings for a period of 120 days following the date of the third meeting. If a fourth meeting or subsequent meetings are called for the exact same purpose after the passage of the 120-day period, the required quorum at the fourth or subsequent meetings shall be thirty percent (30%) or more of the votes of each class of membership being present in person or through a proper written proxy in form authorized by the Management Committee. If the purpose or purposes of any subsequent meeting are not exactly the same as the purpose or purposes of the previous meetings, then the meeting shall be deemed to be a first meeting for purposes of the quorum requirements.

**Section 3.7. Notices.** Any Notices permitted or required to be delivered as provided herein may be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered two (2) business days after the letter has been deposited in the U.S. Mail, postage prepaid and properly addressed to: (a) each such person at the address given by such person to the Board of Directors or Manager for the purpose service of such notice, or (b) to the address of the Unit Owner by such person, if no address has been given to the Board of Directors or the Manager. Such address may be changed, from time to time, by notice in writing to the Board of Directors or Manager.

#### ARTICLE IV

##### BOARD OF DIRECTORS: SELECTION AND TERM OF OFFICE

**Section 4.1. Number.** The affairs of the Association shall be managed by a Board of Directors consisting of three (3) individuals. In addition to individual Owners, spouses of Owners, partners of partnerships owning a Unit, and directors, officers or designated agents of corporations, and managers or designated agents of limited liability companies owning a Unit, shall be eligible for Membership on the Board.

**Section 4.2. Term of Office.** At the first annual meeting, the Members shall elect one (1) of the Board Members for a term of one year, one (1) of the Board Members for a term of two years and one (1) of the Board

Members for a term of three years, and at each annual meeting thereafter the Members shall elect the number of Board Members whose terms are to expire for a term of three years.

**Section 4.3** Removal. Any Board Member may be removed from the Board, with or without cause, by a simple majority vote of the Members present in person or by proxy at a special meeting called for that purpose in which a quorum is present. In the event of death, resignation or removal of a Board Member, his or her successor shall be selected by the remaining Board Members and shall serve for the unexpired term of his or her predecessor.

**Section 4.4** Compensation. No Board Member shall receive compensation for any service he or she may render to the Association. However, any Board Member may be reimbursed for his or her actual expenses incurred in the performance of his or her duties.

**Section 4.5** Action Taken Without a Meeting. The Board Members shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all the Board Members. Any action so approved shall have the same effect as though taken at a meeting of the Board of Directors.

## ARTICLE V

### NOMINATION AND ELECTION OF BOARD MEMBERS

**Section 5.1** Nomination. Nomination for election to the Board of Directors shall be made by a Nominating Committee if one has been appointed by the Board of Directors. If no Nominating Committee has been appointed, the Board of Directors shall serve in that capacity. Nominations may also be made from the floor at the annual meeting. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board of Directors, and two or more Members of the Association, or if such Members do not exist or decline appointment, the Declarant. The Nominating Committee shall be appointed by the Board of Directors prior to each annual meeting of the Members, to serve from the close of such annual meeting until the close of the next annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. Such nominations may be made among Members or non-Members who are authorized to serve on the Board of Directors, as set forth in Section 4.1.

**Section 5.2** Election. Election to the Board of Directors shall be by secret written ballot. At such election, the Members or their proxies may cast, in respect to each vacancy, one vote per Unit owned. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

## ARTICLE VI

### MEETINGS OF THE BOARD OF DIRECTORS

**Section 6.1** Regular Meetings. Regular meetings of the Board of Directors shall be held quarterly without notice, at such place and hour as may be fixed from time to time by resolution of the Board of Directors.

**Section 6.2** Special Meetings. Special meetings of the Board of Directors shall be held when called by the Chairman of the Board of Directors, or by any two Board Members after not less than three (3) days' notice to each Board Member, unless such notice is unanimously waived in writing by the Board of Directors.

**Section 6.3** Quorum. A majority of the number of Board Members shall constitute a quorum for the transaction of business. Every act or design done or made by a majority of the Board Members present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board of Directors.

## ARTICLE VII

### POWERS AND DUTIES OF THE MANAGEMENT COMMITTEE

**Section 7.1** Powers. The Board of Directors shall have power to:

(a) adopt and publish rules and regulations governing the use of the Common Areas, Limited Common Areas, and facilities, if any, and the personal conduct of the Members and their families, guests and other invitees thereon, and to establish penalties for the infraction thereof;

(b) suspend the voting rights and right to use of the recreational facilities, if any, of a Member and his family, guests, and other invitees during any period in which such Member shall be in default in the payment of any assessment levied by the Board of Directors. Such rights may also be suspended after notice and hearing, for a period not to exceed sixty (60) days for infraction of published rules and regulations;

(c) exercise for the Association all powers, duties and authority vested in or delegated to this Association and not reserved to the Members by other provisions of these By-Laws, the Articles of Incorporation, or the Declaration;

(d) declare the office of a member of the Board of Directors to be vacant in the event such Member shall be absent from three (3) consecutive regular meetings of the Board of Directors; and

(e) employ a manager, an independent contractor, or such other employees as they deem necessary, and to prescribe their duties.

**Section 7.2 Duties.** It shall be the duty of the Board of Directors to:

(a) 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 one-fourth (1/4) of the Members;

(b) supervise all officers, agents and employees of the Association, to see that their duties are properly performed;

(c) create and adopt an annual budget and thereafter fix the amount of the annual assessment against each Unit at least 45 days in advance of each annual assessment period;

(d) send written notice of each assessment to every Owner subject thereto at least thirty (30) days in advance of each annual assessment period; and

(e) foreclose the lien against any Unit for which assessments are not timely or bring an action at law against the Owner personally obligated to pay the same, if the Board believes such action shall be beneficial to the Association.

(f) maintain, separately from the operating account of the Association, a bank account for reserves for the maintenance, repairs, and replacement of Common Area and Limited Common Area improvements, which account shall require the signature of two members of the Board of Directors and which shall require that all statements with respect thereto be directly forwarded to the Board of Directors, and not a manager.

(g) issue, or to cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board of Directors for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment;

(h) procure and maintain adequate liability and hazard insurance on all assets owned by the Association, as required by the Declaration;

(i) cause all officers or employees of the Association having fiscal responsibilities to be bonded, as it may deem appropriate;

(j) cause the Common Areas and Limited Common Areas to be well maintained;

(k) maintain current copies of the Declaration, Articles of Incorporation of the Association, these By-Laws, and rules and regulations adopted by the Board or its authorized agent; and

(l) maintain the books and financial records of the Association, and cause the financial statements of the Association for the preceding fiscal year to be audited and made available to the holder, insurer or guarantor of any mortgage secured by a Unit, upon request of the same.

**Section 7.3 Availability of Documents.** The copies of the Declaration, Articles of Incorporation, By-Laws, rules and regulations, and other books and records shall be available during normal business hours of the Association, for inspection by Owners, or by Mortgagees (and holders, guarantors, or insurers thereof).

## ARTICLE VIII

### OFFICERS AND THEIR DUTIES

**Section 8.1 Enumeration of the Offices.** The officers of this Association shall be a President, who shall also be at all times the Chairman of the Board of Directors, and a Vice-President, who shall also be a member of the Board of Directors, a Secretary, and a Treasurer, and such other officers as the Board of Directors may from time to time by resolution create.

**Section 8.2 Election of Officers.** The election of officers shall take place at the first meeting of the Board of Directors following each annual meeting of the Members.

**Section 8.3 Term.** The officers of this Association shall be elected annually by the Board of Directors and each shall hold office for one (1) year unless he or she shall sooner resign, or shall be removed, or otherwise disqualified to serve.

**Section 8.4 Special Appointments.** The Board of Directors may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board of Directors may, from time to time, determine.

**Section 8.5 Resignation and Removal.** Any officer may be removed from office with or without cause by the Board of Directors. Any officer may resign at any time by giving written notice to the Board of Directors, the President or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

**Section 8.6 Vacancies.** A vacancy in any office because of death, resignation, removal, disqualification or otherwise, may be filled by appointment by the Board of Directors. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

**Section 8.7 Multiple Offices.** The offices of Secretary and Treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices, except for the Declarant, who is unrestricted in the number of offices held, and except in the case of special offices created pursuant to Section 8.4 of this Article.

**Section 8.8 Duties.** The duties of the officers are as follows:

#### President

The President (Chairman of the Board of Directors) shall preside at all meetings of the Board of Directors, Annual Meetings of Owners, and Special Meetings of Owners; shall see that orders and resolutions of the Board are carried out; shall sign all leases, mortgages, deeds and other written instruments and shall co-sign all checks and promissory notes.

Vice-President

The Vice-President shall, in the absence of the President, do the following: preside at all meetings of the Board of Directors, Annual Meetings of the Owners, and Special Meetings of Owners; shall see that orders and resolutions of the Board are carried out; shall sign all leases, mortgages, deeds and other written instruments and shall co-sign all checks and promissory notes.

Secretary

The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board of Directors and of the Members; keep the corporate seal of the Association and affix it on all papers requiring said seal; keep appropriate current records showing the Members of the Association, together with their addresses, keep proxies submitted by Members for voting; and shall perform such other duties as required by the Board of Directors.

Treasurer

The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors; sign all checks and promissory notes of the Association; keep proper books of account; if the Board of Directors deems appropriate, cause an annual audit of the Association books to be made by a public accountant at the completion of each fiscal year; and prepare an annual budget and a statement of income and expenditures to be presented to the Members at the Annual Meeting, and deliver a copy of each to the Members.

ARTICLE IXCOMMITTEES

The Board of Directors may appoint a Nominating Committee, as provided in these By-Laws. In addition, the Board of Directors may appoint other committees as deemed appropriate in carrying out its purposes.

ARTICLE XIASSESSMENTS

Each Member is obligated to pay to the Association annual and special assessments which are and will be secured by a continuing lien upon the Units against which the assessment is made. Any assessments which are not paid when due shall be delinquent. If the assessment is delinquent for ten (10) or more days, it shall accrue interest at the rate of eighteen percent (18%) per annum until paid. The Board of Directors, or its authorized agent, may bring an action at law against the Owner personally obligated to pay the delinquent assessment and accruing interest, or foreclose the lien against the Unit. In any such action to collect delinquent assessments, or in any legal proceedings to enforce the terms of the Declaration, the Articles of Incorporation, the By-Laws, or the published rules and regulations of the Association, the Board of Directors, or its authorized agent, shall have a right to collect reasonable attorney's fees and court costs incurred, which sums shall become part of the delinquent assessment owed. No Owner may waive or otherwise avoid liability for the assessments provided for herein by non-use of the Common Area or Limited Common Area, or through abandoning his or her Unit.

ARTICLE XIICORPORATE SEAL

The Association may obtain a seal, in such form as the Board of Directors may elect, having the name of the Corporation, the year of incorporation, and the words "Corporate Seal."

**ARTICLE XIII**  
**AMENDMENTS**

These By-Laws may be amended by a majority vote of the Members present in person or by proxy at a meeting duly called for that purpose wherein a quorum is present.

**ARTICLE XIV**  
**MISCELLANEOUS**

Section 14.1 The fiscal year of the Association shall begin on the first day of January and end on the 31<sup>st</sup> day of the December of every year, except that the first fiscal year shall begin on the date of incorporation.

Section 14.2 In the case of any conflict between the Articles of Incorporation and these By-Laws, the Articles shall control. In the case of any conflict between the Declaration and these By-Laws, the Declaration shall control.

IN WITNESS WHEREOF, the Declarant of Stoney Brook Cottages Association, Inc. has executed these By-Laws this 31 day of January, 2008.

DECLARANT:

Stoney Brook Cottages Company CS, LLC

By:

  
Chad R. Salmon

Its: Manager

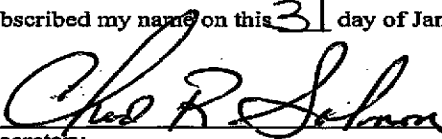
**CERTIFICATION**

I, the undersigned, do hereby certify:

THAT I am the duly elected and acting Secretary of Stoney Brook Cottages Association, Inc., a Utah Non-Profit Corporation; and

THAT the foregoing By-Laws constitute the original By-Laws of said Corporation, as duly adopted at a meeting of the Board of Directors thereof, held on the 31 day of January, 2008.

IN WITNESS WHEREOF, I have hereunto subscribed my name on this 31 day of January, 2008.

  
Secretary