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By MESA TH HOA



**THE MESAS TOWNHOME
ASSOCIATION, INC**

**Declaration of Covenants, Conditions and
Restrictions**

Approved October 29, 2011

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AMENDED AND RESTATED DECLARATION OF COVENANTS CONDITIONS AND RESTRICTIONS OF THE MESAS TOWNHOME ASSOCIATION, INC.

MESAS-AMD 4

THIS IS A DECLARATION of Covenants, Conditions and Restrictions which establishes a planned unit development known as The Mesas Townhomes. This Declaration was originally made and executed on the 10th day of October, 1985 by The Mesas Townhome Partnership. The Association desires to update and clarify certain provisions contained in the original Declaration.

This Amended and Restated Declaration of Covenants, Conditions and Restrictions of The Mesas Townhome Association, Inc. (hereafter "Declaration") replaces the original Declaration in its entirety, originally recorded as "DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS OF THE MESAS TOWNHOMES PARTNERSHIP", and further recorded with the Washington County Recorder as an Amended Declaration on December 31, 1990, Entry #0376517, Bk. 0585, Pg 0520-0553, and as an Amended Declaration on August 8, 2006, the terms of which are included in this document.

DECLARATION

This Amended and Restated Declaration is hereby subjected to the Utah Community Association Act (hereafter "the Act") currently known as 57-8a-101, et seq., as the same may be amended from time to time. This Declaration incorporates the applicable terms of the Act which shall be binding on all members of the Association and which shall further govern the policies, procedures and actions of the Board of Trustees in addition to this Declaration and the Bylaws. If any provisions of this Declaration and Bylaws are in conflict with the Act, then the Act shall control.

This Declaration and the Map shall be construed as covenants of equitable servitude; 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 Home Owner thereof.

The Mesas, a Planned Unit Development, together with all improvements and appurtenances thereunto belonging, are located in St. George, Washington County, Utah. They are described in the Declaration of Covenants, Conditions and Restrictions and as indicated on the Official Plat thereof on file in the office of the Recorder of Washington County, State of Utah.

ARTICLE 1 – DEFINITIONS

The following definitions control in this Declaration. These terms, though defined, are generally not capitalized in the Declaration.

Section 1.1. Act means the Utah Community Association Act, Title 57-8a-101, it seq., as may be amended from time to time.

Section 1.2. Association means The Mesas Townhomes Association, Inc., its successors and assigns. The Association may or may not desire to maintain a Nonprofit Corporation. If at anytime, however, the Nonprofit Corporate status unintentionally lapses, the Trustees, by its own

vote, may reincorporate the Association.

Section 1.3. Common Area means that portion of property owned by the Association, shown on the plat as dedicated to the common use and enjoyment of the Home Owners.

Section 1.4. Common Fence "Common Fence" shall hereinafter mean and refer to any fence (other than a Side Yard Fence) erected as part of the original construction, or as subsequent replacement thereof, which is appurtenant to two or more Townhomes and faces a side or back yard easement on both sides.

Section 1.5. Common Fence Owner "Common Fence Owner" shall hereinafter mean and refer to a Home Owner of a Townhome appurtenant to which is a Common Fence.

Section 1.6. Declaration means this instrument, and any amendments.

Section 1.7. Fines means a punitive monetary amount levied against a Home Owner and Lot for violations of this Declaration, the By-Laws, the Supplemental Rules and Regulations of the Association and applicable Architectural Guidelines. Said Fines shall be collectable as assessments pursuant to Article 4 herein and shall be based upon a Schedule of Fines adopted by the Trustees, in accordance with applicable Utah law and Article 9 of this Declaration.

Section 1.8. Fiscal Year "Fiscal Year" for The Mesas shall mean the twelve (12) month period beginning January 1 and ending December 31 of each calendar year.

Section 1.9. Front Yard Area means and refers to the yard area of each living unit and is deemed either part of the Lot, Limited or General Common Area, as depicted on the Plat Map.

Section 1.10. Home Owner means the entity, person, or group of persons owning fee simple title to any Lot, which is within the properties. Regardless of the number of parties participating in Ownership of each Lot, the group of those parties shall be treated as one "Home Owner."

Section 1.11. Limited Common Area means that portion of property owned by the Association, shown on the plat as dedicated to the exclusive use and enjoyment of the Home Owner of the Lot to which such limited common area is adjacent and/or appurtenant. Limited Common Area is subject to rights of the Association set forth in this Declaration. Unless otherwise determined by resolution of the Trustees, Limited Common Area shall be repaired, replaced and maintained by the Home Owner(s) to which Lot it is appurtenant.

Section 1.12. Living Unit means a single family dwelling, with or without walls or roofs in common with other single family dwelling Lots. When the term "Living Unit" is used it includes fee title to the real property lying directly beneath the single family dwelling, within Lot boundary lines. This however, is not all of the Lot in some instances as there may be Lot boundaries outside the living unit walls. The term "single family dwelling" when used in this Declaration shall mean a townhome with a group of not more than four (4) persons in a two (2) bedroom Living Unit or up to six (6) persons in a three (3) bedroom Living Unit, who are directly related either as spouses or significant others, parent and child, grandparent, grandchild, niece, nephew, or as siblings. In no event shall a single family dwelling exceed six (6) individuals. A medically required, state licensed caregiver need not meet the family

qualifications stated herein.

Section 1.13. Lot means a separately numbered and individually described plot of land shown on the plat designated as a Lot for private Ownership, but specifically excludes the Common and Limited Common Areas.

Section 1.14. Maintenance of Side Yard and Common Fences The costs of care and maintenance of Side Yard Fences and Common Fences, including cosmetic, structural and/or replacement costs shall be equally divided between the involved Fence Owners.

Section 1.15. Member means every person or entity that holds membership in the Association. Every member is a Home Owner, and every Home Owner is a member.

Section 1.16. Mortgage includes "deed of trust" and mortgagee includes "trust deed beneficiary".

Section 1.17. Party Wall "Party Wall" shall mean and refer to any wall within a Townhome which is built as a part of the original construction of the Townhomes (or as part of a subsequent restoration or replacement of such original construction) and which is placed on a dividing line between such Townhomes.

Section 1.18. Party Wall Owner "Party Wall Owner" shall mean and refer to the Home Owner of a Lot upon which the Townhome is separated from another Townhome by a Party Wall. If more than one Home Owner owns a Lot upon which the Townhome is separated from another Townhome by a Party Wall, then all such Home Owners shall collectively be the Party Wall Owner for such Lot. Further, the costs of care and maintenance of Party Walls, including cosmetic, structural and/or replacement costs shall be equally divided between the involved Party Wall Owners.

Section 1.19. Plat or Map means the subdivision plat recorded herewith entitled "The Mesas".

Section 1.20. Property or Properties means that certain real property hereinbefore described, and such additions thereto as may hereafter be subjected to this Declaration.

Section 1.21. Side Yard Fence "Side Yard Fence" shall hereinafter mean and refer to any fence erected as part of the original construction, or as a subsequent replacement thereof, which on one side faces a common area and on the other side faces the side or back yard easement of a Townhome.

Section 1.22. Side Yard Fence Owner "Side Yard Fence Owner" shall hereinafter mean and refer to the Owner of a Townhome or Common Area, whose side or back yard faces a Side Yard Fence.

Section 1.23. Townhome "Townhome" shall hereinafter mean and refer to a single family home or other similar single family residential unit constructed upon a Lot for the permanent occupancy of a Home Owner and his or her family. Note: See Section 1.8 "Living Unit"

Section 1.24. Trustees (or Board of Trustees, sometimes called the Board) means the governing body of the Association. (Formerly called the Board of Directors).

ARTICLE 2 - PROPERTY RIGHTS

Section 2.1. Title to the Common Area Fee simple title to the Common Area and Limited Common Area is vested in the Association and is subject to the terms of this Declaration, and easements and rights-of-way of record. By a Home Owner accepting a deed, the Association will covenant to fulfill all the terms of this Declaration to the best of its ability, to maintain the Common Area in reasonably good repair and condition at all times and to operate the Common Area at its own expense in accordance with high aesthetic and construction standards.

Section 2.2. Home Owners' Easements of Enjoyment Every Home Owner has a right and easement of use and enjoyment in and to the Common Area. This easement is appurtenant to and passes with the title to every Lot, subject to:

- a. The right of the Association to limit the number of guests of members using the Common Area.
- b. The right of the Association to suspend the voting rights and/or common utility services, if any, of a member for any period during which any assessment or a portion thereof levied against his or her Lot remains unpaid and during any period of unresolved infraction of these Covenants and the Association's Supplemental Rules and Regulations, provided that the Home Owner, prior to having its common utility services suspended, if any are applicable, first has notice and an opportunity to be heard regarding their alleged violation.
- c. The right of the Association to enter into agreements or leases which provide for use of the Common Areas and facilities by a similar Association in consideration for use of the Common Areas and facilities of the other Association, or for cash consideration.
- d. The right of the Association with the approval of sixty-seven percent (67%) of the Home Owners, to sell, exchange, hypothecate, alienate, mortgage, encumber, dedicate, release or transfer all or part of the common area to any private individual, corporate entity, public agency, authority, or utility.
- e. The right of the Association to grant easements for public utilities or other public purposes consistent with the intended use of the common area by the Association.
- f. The right of the Association to take such steps as are reasonably necessary or desirable to protect the common area against foreclosure.
- g. The right of the Association to enforce the terms and conditions of this Declaration, its By-Laws and Supplemental Rules and Regulations.
- h. The right of the Association, through its Trustees, to adopt reasonable Supplemental Rules and Regulations concerning use of the common area.

Section 2.3. Limited Common Area A Home Owner is entitled to the exclusive use of the Limited Common Area adjacent and appurtenant to their lot, if any, and to exclusive use of the parking area, if any, designated with his Lot number on the plat. The Association, through its Trustees, may adopt Supplemental Rules and Regulations concerning use of the Limited

Common Area. Limited Common Area is subject to the rights of the Association set forth in this Declaration. Unless otherwise determined or clarified by a resolution of the Trustees, Limited Common Area shall be repaired, replaced and maintained by the Home Owner(s) to which Lot it is adjacent and appurtenant.

Section 2.4. Delegation of Use A Home Owner is deemed to delegate his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property. No one who is non-resident shall have any such delegable right of enjoyment.

Section 2.5. Rules The Trustees shall have the authority to promulgate reasonable Supplemental Rules and Regulations and further shall have the authority to levy fines and access penalties for the governance of the Properties, and persons within the Properties. These rules of the Association shall be compiled and copies shall be made available for inspection and copying by the Trustees. A schedule of fines, for violations of the Supplemental Rules and Regulations or of this Declaration, shall be adopted by the Trustees and may be changed from time to time to address specific concerns of the Association. Notice of any proposed change of Supplemental Rules and Regulations or Schedule of Fines shall be given at least fifteen (15) days prior to and no longer than thirty (30) days before the date set for the meeting at which such changes will be adopted. The proposed changes will be sent out to all homeowners. The notice may be delivered either personally, by email or by mail. If delivery is made by mail, it shall be deemed to have been delivered five [5] business days after it has been deposited with the U.S. Postal Service (regular mail, postage prepaid), addressed to the Home Owner or Resident at the address given by the member to the Trustees for the purpose of service of notice, or to the address of the Home Owner's or Resident's Unit if no other address has been provided. Home Owners may repeal duly adopted rules and regulations of the Association as provided in the Act. The address or email address of a Home Owner or Resident for the purposes of notice may be changed from time to time by delivery of written notice to the Trustees. Prior to collecting a fine, the alleged offending Home Owner shall be given notice of the violation and an opportunity to explain why the Association's rules, policies and covenants do not apply to them or their situation. Thereafter, a fine may be collected if the behavior is, in fact, deemed a violation.

Section 2.6. Lot Each Lot is owned in fee simple by the Home Owner. However, area within the surveyed Lot boundaries but outside the townhome walls, even though part of the Lot and owned in fee simple by the Home Owner, shall be treated as limited common area for use and maintenance purposes as set forth in this Declaration. The purpose of laying out a Lot larger than the townhome is to allow flexibility in the original townhome construction. After the initial construction on a Lot, subsequent construction, if any, may occupy any portion of the surveyed Lot, subject to all other provisions of this Declaration. A Home Owner may construct appurtenant structures and personal landscaping outside the boundaries of the townhome and within the rear area of the surveyed boundaries of the Lot, subject to approval of the Architectural Control Committee, as outlined in Article 6 herein.

ARTICLE 3 - MEMBERSHIP AND VOTING RIGHTS

Section 3.1. Membership Every Home Owner is a member of the Association. The term "Home Owner" includes contract purchasers but does not include persons who hold an interest merely as security for the performance of an obligation unless and until title is acquired by foreclosure or similar proceedings. Membership is appurtenant to and may not be separated from Home Ownership. Membership in the Association automatically transfers upon transfer of title by the record Home Owner to another person or entity.

Section 3.2. Voting Rights The Association has one class of voting membership: All members are entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, the group of such persons shall be the member. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot. A vote cast at any association meeting by any of such co-Home Owners, whether in person or by proxy, is conclusively presumed to be the vote attributable to the Lot concerned unless written objection is made prior to that meeting, or verbal objection is made at that meeting, by another co-Home Owner of the same Lot. In the event an objection is made, the vote involved shall not be counted for any purpose except to determine whether a quorum exists.

ARTICLE 4 - FINANCES AND OPERATIONS

Section 4.1. Creation of the Lien and Personal Obligation of Assessments Each Home Owner and each subsequent Home Owner of any Lot, by acceptance of a deed therefore, whether or not it shall be so expressed in any such deed or other conveyance, covenants and agrees to pay to the Association (1) annual assessments or charges; (2) special assessments for capital improvements, such assessments to be fixed, established, and collected from time to time as hereinafter provided; (3) any other amount or assessment levied or charged by the Association or Board of Trustees pursuant to this Declaration, and (4) interest, costs of collection and reasonable attorney's fees, whether or not a lawsuit for collections is initiated. The Association may charge a reasonable fee, not to exceed that authorized by the Act, for providing a Payoff amount in connection with the financing, refinancing or closing of a lot. This information will be provided by the Association within five business days of receipt of a proper request by a closing agent. To be considered proper, this request must be in writing, signed and dated by the Home Owner. All such amounts shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment or amount is charged. Such assessments and other amounts shall be the personal obligation of the person who was the Home Owner of such property at the time when the assessment fell due. Successors in title shall not be personally liable for assessments delinquent at the time they took title unless that obligation is expressly assumed by them.

Section 4.2. Purpose of Assessments The assessments levied by the Association shall be used (a) for the purpose of promoting the recreation, health, safety, and welfare of the residents of the properties and (b) for the improvement and maintenance of properties, services, and facilities devoted to this purpose. The assessments must provide for, but are not limited to: the payment of taxes on Association property and insurance maintained by the Association; the payment of the cost of repairing, replacing, maintaining and constructing or acquiring additions to the common and limited common areas; the payment of administrative expenses of the Association; insurance deductible amounts; the establishment of a reserve account for repair, maintenance and replacement of those common and limited common areas which must be

replaced on a periodic basis; and other amounts required by this Declaration or that the Trustees shall determine to be necessary to meet the primary purposes of the Association. The assessments may provide, at the discretion of the Trustees, for the payment of other charges including, without limitation, maintenance, management, utility, cable television, trash collection, sewer and water charges and for,

- a. Repairing, replacing, insuring, and maintaining the Common Area and improvements thereon, including the non-assigned parking places and walkways;
- b. Installation, maintenance, and repair of Private Roads and underground utilities upon, across, over and under any part of the Common Area;
- c. Installation, maintenance, and repair of asphalt paving, curbs, gutters and drainage on any Private Roads located in the Property;
- d. Installation, maintenance and repair of paths and walkways on the Common Areas;
- e. Garbage and trash pickup service, if any, furnished to the Common Area or to Lots by the Association;
- f. Providing services to the Common Area such as mowing grass, caring for the grounds and sprinkling and irrigation system, landscaping, trees, shrubs, grass, walkways and pathways;
- g. Repair and maintenance of all common parking areas as hereinafter described;
- h. Carrying out the powers and duties of the Association;
- i. Providing for exterior painting or staining, or both, of the trim only (as defined in Article VII, Section 3 (h)) of the Townhome and the covered parking spaces to be maintained.;
- j. Providing for the establishment of an adequate reserve fund for the maintenance, repair and replacement of Common Areas on a periodic or "as needed" basis, which reserve fund shall be a part of the regular monthly assessments;
- k. Any other purposes and uses that the Board shall determine to be necessary to meet the primary purposes of the Association, including the establishment and maintenance of reserves for repair, maintenance, taxes, and the other uses specified above.

Section 4.3. Maximum Annual Assessment

- a. The maximum annual assessment may be increased each year by five percent (5%) above the assessment for the previous year, without a vote of the membership.
- b. The Association may change the basis and maximum of the assessments fixed by this Section prospectively for any annual period provided that any such change shall have the assent of sixty-seven percent (67%) of the votes of members, voting in person or by proxy, at a meeting duly called for this purpose.

The actual general assessment need not increase annually. Any year in which the maximum annual assessment of five percent (5%) was not applied, it may not be revisited in order to provide an increase to the current or future year's assessments. The Trustees shall set the assessment on an annual basis. Notice shall be given to each Home Owner as provided in Section 8. The Trustees must set the actual general assessment to be an amount at or less than the Maximum Annual Assessment.

Section 4.4. Special Assessments for Capital Improvements In addition to the annual assessments, the Association may levy in any assessment year a special assessment, applicable to that year only. The Board shall have the authority to levy an assessment to the members for a total assessment equal to 1/12 of the Maximum Annual Assessment for capital improvements without a vote of the membership. Special assessments may only be levied to defray, in whole or in part, the cost of any construction, reconstruction, repair or replacement of common or limited common area structures, fixtures and personal property related thereto. Special assessments exceeding the limit in this paragraph must have the assent of sixty-seven percent (67%) of the votes of the members authorized to vote, in person or by proxy, at a meeting duly called for this purpose.

Section 4.5. Additional Assessments In addition to the annual assessments and special assessments for capital improvements authorized herein, the Association shall levy such additional assessments as may be necessary from time to time for the purpose of repairing and restoring the damage or disruption resulting to streets or other Common or Limited Common Areas from the activities of the City of St. George in maintaining, repairing or replacing the City's utility lines and facilities thereon. It is acknowledged that the Home Ownership of said utility lines, underground or otherwise, is in the City up to and including the meters for individual units, and that they are installed and shall be maintained to City specifications.

Section 4.6. Notice and Quorum for Any Action Authorized Under Sections 3 and 4 Written notice of any meeting of members called for the purpose of taking any action authorized under Sections 3 or 4 shall be sent to all members at least thirty (30) days in advance of said meeting. At the first meeting called, the presence at the meeting of members, or of proxies, entitled to cast sixty percent (60%) of all the votes of the membership shall constitute a quorum. If the quorum requirement is not met at such a meeting, another meeting may be called, on at least thirty (30) days advance written notice, and the required quorum at any such subsequent meeting shall be one-half of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting. In the event that a member's voting privileges are suspended as provided for in this Declaration, then the total number of members used in calculating any quorum or other required percentage of Home Owners, shall NOT include those members whose voting privileges are suspended.

Section 4.7. Uniform Rate of Assessment: Periodic Assessment Both annual and special assessments must be fixed at a uniform rate for all Lots. Annual, special and additional assessments may be collected on a monthly or quarterly basis, as the Trustees determine.

Section 4.8. Commencement of Assessments At least thirty (30) days prior to the commencement of each new assessment period, the Trustees shall send or cause to be sent a written notice of the annual assessment to each Home Owner subject thereto. This notice shall not be a prerequisite to validity of the assessment. In the absence of a determination by the Trustees as to the amount of said assessment, the annual assessment shall be an amount not to

exceed four and one half percent (4.5%) of the maximum annual assessment from the previous year's assessment. The assessment due dates shall be established by the Trustees. The Trustees may provide for the payment of annual and special assessments in equal installments throughout the assessment year.

The Trustees shall prepare a roster of the properties and the assessments applicable thereto at the same time that it shall fix the amount of the annual assessment, which roster shall be kept by the Treasurer of the Association, who shall record payments of assessments and shall allow inspection of the roster by any member at reasonable times.

The Association shall, upon demand, and for a reasonable charge as allowed by Utah law, furnish a certificate signed by an officer of the Association setting forth whether the assessment on a specified Lot has been paid. Such certificates, when properly issued, shall be conclusive evidence of the payment of any assessment or fractional part thereof which is therein shown to have been paid.

No Home Owner may waive or otherwise escape liability for the assessments provided for herein by the non-use of the Common Area or by abandonment of the Home Owner's Lot. In addition, an Owner's acceptance of the Owner's interest in a lot constitutes a simultaneous conveyance of the lot in trust, with power of sale, to the trustee designated by the Association, for the purpose of securing payment of all amounts due under this Declaration and the Act.

Section 4.9. Effect of Non-Payment of Assessment- Remedies of the Association Any assessment or installment thereof not paid within ten (10) days after the due date shall be delinquent and a reasonable fine, as established by Trustee resolution, shall be imposed for each payment period in which the assessment or installment remains unpaid. In addition, any utilities paid for by common expenses or access to the common areas may be terminated for failure to pay assessments. A homeowner's voting rights are suspended during any period of delinquency unless a payment arrangement is entered into with the Board, at which time the member's voting privileges are restored.

The Trustees may, in the name of the Association, (a) bring an action at law against the Home Owner personally obligated to pay any such delinquent assessment without waiving the lien of assessment or (b) may foreclose the lien against the property in accordance with the laws of the State of Utah and the Act applicable to the exercise of powers of sale in deeds of trust or to the foreclosure of mortgages, or in any other manner permitted by law, and/or (c) may restrict, limit or totally terminate any or all services performed by the Association in behalf of the delinquent member.

There shall be added to the amount of any delinquent assessment the costs and expenses of any action, sale or foreclosure, and a reasonable attorney's fee, together with an account for the reasonable rental for the Lot from time to time of commencement of the foreclosure. The Association shall be entitled to the appointment of a receiver to collect the rental income or the reasonable rental without regard to the value of the other security. All remedies provided under Utah Code 57-8a-101 et seq., as may be amended from time to time, is hereby authorized and incorporated into this Declaration in order to facilitate the collections of assessments.

A power of sale is hereby conferred upon the Association which it may exercise. Under

the power of sale the Lot of a Home Owner may be sold in the manner provided by Utah law and the Act pertaining to deeds of trust as if said Association were beneficiary under a deed of trust. The Association may designate any person or entity qualified by law to serve as Trustee for purposes of power of sale foreclosure.

No Home Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or by abandonment of the Home Owner's Lot.

The board may require a tenant under a lease with a lot owner to pay the association all future lease payments due to the lot owner if the lot owner fails to pay an assessment for a period of more than 60 days after the assessment is due and payable.

Before requiring a tenant to pay lease payments to the association under this Subsection, the Board shall give the lot owner notice, in accordance with the declaration, bylaws, or association rules. At a minimum, the notice shall state: (i) the amount of the assessment due, including any interest, late fee, collection cost, and attorney fees; (ii) that any costs of collection, including attorney fees, and other assessments that become due may be added to the total amount due and to be paid through the collection of lease payments; and (iii) that the association intends to demand payment of future lease payments from the lot owner's tenant if the lot owner does not pay the amount owing within 15 days.

If a lot owner fails to pay the amount owing within 15 days after the Board gives the lot owner notice, the Board may exercise the association's rights by delivering a written notice to the tenant. Notice to a tenant shall state that (i) due to the lot owner's failure to pay an assessment within the required time, the board has notified the lot owner of the board's intent to collect all lease payments until the amount owing is paid; (ii) the law requires the tenant to make all future lease payments, beginning with the next monthly or other periodic payment, to the association, until the amount owing is paid; and (iii) the tenant's payment of lease payments to the association does not constitute a default under the terms of the lease with the lot owner. The Board shall mail a copy of the notice to the lot owner.

The Board shall also mail a copy of the notification to the tenant, and shall follow any additional requirements set forth in the Act.

Section 4.10. Subordination of the Lien to Mortgages The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage held by an institutional lender or insured by the Federal Housing Administration or the Veterans Administration if the mortgage was recorded prior to the date the assessment became due. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to foreclosure of a first mortgage or any proceeding in lieu thereof, shall extinguish the assessment lien as to payments which became due prior to such sale or transfer. No sale or transfer pursuant to a foreclosure, however, shall relieve the current Home Owner from personal liability for assessments coming due after the new Home Owner takes title.

Section 4.11. Books, Records and Audit The Association shall maintain current copies of the Declaration, Articles, By-Laws, Rules and other similar documents, as well as its own books, records and financial statements which shall all be available for inspection by Home Owners and insurers as well as by holders, insurers and guarantors of first mortgages during normal business hours upon reasonable notice which shall be at least five (5) days. Charges shall be made for

copying, researching or extracting from such documents. A Home Owner or holder, insurer or guarantor of a first mortgage may obtain an audit of Association records at its own expense so long as the results of the audit are provided to the Association.

ARTICLE 5 – INSURANCE

NOTE: “To the extent required by Utah law, the following provisions of this Article V shall be superseded by Utah Code 57-8a-101 et seq, to the extent such provisions are applicable.”

Section 5.1. Casualty Insurance on Insurable Common Area The Trustees shall keep all insurable improvements and fixtures of the Common Area insured against loss or damage by fire for the full insurance replacement cost thereof, and may obtain insurance against such other hazards and casualties as the Association may deem desirable. The Association may also insure any other property whether real or personal, owned by the Association, against loss or damage by fire and such other hazards as the Association may deem desirable, with the Association as the Home Owner and beneficiary of such insurance. The insurance coverage with respect to the Common Area shall be written in the name of, and the proceeds thereof shall be payable to, the Association. Insurance proceeds shall be used by the Association for the repair or replacement of the property for which the insurance was carried. Premiums for all insurance carried by the Association are common expenses which shall be included in the regular annual assessments made by the Association.

In addition to property and casualty insurance on the Common Area, the Trustees will obtain and continue in effect, on behalf of all Home Owners, adequate blanket casualty and fire insurance in such form as the Trustees deem appropriate in an amount equal to the full replacement value without deduction for depreciation or coinsurance, of all of the Townhomes including the structural portions and fixtures thereof. Insurance premiums from any such blanket insurance coverage, and any other insurance premiums paid by the Association shall be a common expense of the Association to be included in the regular annual assessments as levied by the Association. The insurance policy in place at time of an insurable occurrence shall be referred to for insurance details and coverage. The insurance coverage with respect to the Townhomes shall be written in the name of, and the proceeds thereof shall be payable to the Association as trustee for the Home Owners.

The Association shall also obtain a Directors and Officer’s policy (D&O Policy) of insurance in an amount and upon the terms and conditions deemed adequate by the Trustees. Said amount of insurance may be changed from time to time as deemed necessary.

Section 5.2. Replacement or Repair of Property In the event of damage to or destruction of any part of the Common Area improvements, the Association shall repair or replace the same from the insurance proceeds available. If such insurance proceeds are insufficient to cover the costs of repair or replacement of the property damaged or destroyed, the Association may make a reconstruction assessment against all Home Owners to cover the additional cost of repair or replacement not covered by the insurance proceeds, in addition to any other Common Assessments made against such Home Owner. Such “reconstruction assessment” is not limited to any provisions regarding special assessments or additional assessments set forth above.

The Trustees may determine the deductible on any policies purchased by the Association. If any adjustments are made to the deductible, the Trustees will notify all homeowners.

In the event of damage or destruction by fire or other casualty to any portion of the development covered by insurance written in the name of the Association, the Trustees are empowered to and shall represent the members in any proceedings, negotiations, settlements or agreements. The Association is appointed attorney-in-fact of each Home Owner for this purpose.

Regardless of whether the Association or the individual members provide property and casualty insurance for the Townhomes, if the cause of a loss to the Townhomes or Common Areas is determined to be the fault of a particular Home Owner or group of Home Owners, then those specific Home Owner(s) shall be responsible for the payment of the deductible and it shall not otherwise be a common expense. Each Home Owner is encouraged to obtain a policy of insurance (in addition to whether they may be required to insure their own Townhome) in an amount adequate to cover the deductible in the event they are responsible for such costs.

Section 5.3. Liability Insurance The Trustees shall obtain a comprehensive policy of public liability insurance covering all of the Common and Limited Common Area for at least \$1,000,000.00 per occurrence for personal or bodily injury and property damage which results from the operation, maintenance or use of the Common Areas. Liability insurance policies obtained by the Association shall contain a "severability of interest" clause or endorsement which shall preclude the insurer from denying the claim of a Home Owner because of negligent acts of the Association or other Home Owners.

Section 5.4. Fidelity Insurance The Trustees will obtain fidelity coverage against dishonest acts on the part of managers, Trustees, officers, employees, volunteers, management agents or others responsible for handling funds held and collected for the benefit of the Home Owners or members. In procuring fidelity insurance the Trustees shall seek a policy which shall (1) name the Association as obligee or beneficiary, plus (2) be written in an amount not less than the sum of (i) three months' operating expenses and (ii) the maximum reserves of the Association which may be on deposit at any time, and (3) contain waivers of any defense based on the exclusion of persons who serve without compensation from any definition of "employee."

Section 5.5. Annual Review of Policies All insurance policies shall be reviewed at least annually by the Trustees in order to ascertain whether the coverage contained in the policies is sufficient to make any necessary repairs or replacements of the property which may be damaged or destroyed.

ARTICLE 6 - ARCHITECTURAL CONTROL COMMITTEE

No structure, building, fence, wall or addition, extension or expansion of any of the foregoing shall be commenced, erected or maintained upon the properties, nor shall any exterior addition or change or alteration to any Lot or Living Unit be made until the plans and specifications showing the nature, kind, shape, height, materials, colors and location of the same shall 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 Trustees or, if such a committee is in existence, by an Architectural Control Committee composed of three (3) or more representatives appointed by the Trustees. In the event said Trustees, or their designated committee fail to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and compliance with this Article will be deemed to have been made.

Without the prior written approval of at least sixty-seven percent (67%) of the Home Owners, neither the Association nor the Architectural Control Committee shall have the power, by act or omission, to change, waive or abandon any plan, scheme or regulations pertaining to the architectural design or the exterior appearance or maintenance of homes and Lots, and the maintenance of the common and limited common areas, including walls, fences, driveways, lawns and plantings.

Any proposed changes to existing architectural standards or guidelines shall be done consistent with the notice and rule making procedures set forth in this Declaration and the Act.

ARTICLE 7 - EXTERIOR MAINTENANCE

Section 7.1. Exterior Maintenance by Home Owners Each Home Owner shall be responsible for maintenance to the exterior of their Townhome (including the roof) and for the Limited Common Area adjacent and appurtenant to their Lot. Limited Common Area is shown on the Plat Map of the Association. Unless modified or clarified by resolution of the Trustees, driveways, patios, enclosed patios, decks, limited common area walkways and fences that benefit only a single Home Owner or limited number of Home Owners, shall be maintained in reasonably good condition, repaired and replaced by those Home Owners who derive the benefits thereof.

The Trustees shall, however, in the default of the Home Owner to perform maintenance which is the Home Owner's responsibility, and after a two-thirds (2/3) vote of the Trustees, and after ten (10) days written notice (which notice shall not be required in the event of emergency or threat to life, health, property or safety), provide exterior maintenance upon each townhome and Lot, and the limited common area adjacent and appurtenant thereto. The cost of such maintenance shall be assessed against the Lot or Townhome and collected as an assessment pursuant to Article 4.

Section 7.2. Exterior Maintenance by Association The Association shall be responsible for maintenance upon the Common Area, to include all sidewalks. The cost of such maintenance shall be a common expense. Excluding driveways and front yard patio areas, the Association shall maintain, repair and restore the front yard area of each Lot.

Section 7.3. Access at Reasonable Hours For the purpose solely of performing the maintenance required by this article, the Association, through its duly authorized agents or employees, shall have the right, after reasonable notice to the Home Owner, to enter upon any Lot or Limited Common Area at reasonable hours.

Section 7.4. Alteration of Certain Maintenance Duties by Rule The duty of maintenance for the area of a Lot outside the walls of the townhome, and the limited common areas adjacent and appurtenant to the townhomes may be altered by rule of the Association, as determined by the Trustees. However, any such rule adopted by the Trustees that affects maintenance may be repealed by a sixty-seven percent (67%) super-majority vote.

ARTICLE 8 - USE RESTRICTIONS

Section 8.1. General Use Restrictions All of the properties which are subject to this

Declaration are hereby restricted to residential use, dwellings, and buildings in connection therewith, including but not limited to community buildings on the Common Area. All buildings or structures erected on the properties shall be of new construction and no buildings or structures shall be removed from other locations to the properties. After the initial construction on a Lot, no subsequent building or structure dissimilar to that initially constructed shall be built on that Lot. No building or structure of a temporary character, trailer, basement, tent camper, shack, or garage shall be placed or used on any Lot at any time without approval of the Architectural Control Committee.

Section 8.2. Signs: Commercial Activity Except for one "For Rent" or "For Sale" sign of not more than four (4) square feet, no advertising signs, billboards, objects of unsightly appearance, or nuisances shall be erected, placed, or permitted to remain on any Lot or any portion of the properties. No commercial activities of any kind whatever shall be conducted in any building or on any portion of the properties. The size of permissible signs may be changed by rule, as necessary.

Section 8.3. Quiet Enjoyment No noxious, offensive or illegal activity shall be carried on upon any part of the properties nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood, or which shall in any way interfere with the quiet enjoyment of each of the Home Owners or which shall in any way increase the rate of insurance. The terms "noxious" and "offensive" may be further defined by rule.

Section 8.4. Animals No animals, livestock or poultry of any kind shall be raised, bred or kept on any of said Lots, except indoor household pets, two or less in total number, (such as dogs, cats, parakeets, gerbils, hamsters as examples), or as approved by the Trustees, may be kept provided that they are not kept, bred or maintained for any commercial purpose. Notwithstanding the foregoing, no animals or fowl may be kept on the property which result in an annoyance or are obnoxious, by noise, smell or otherwise, to Home Owners. The Trustees shall place conditions on approval of animals including the right to cause an animal to be removed if said animal becomes an annoyance to any other Home Owners. All pets must be kept within a Home Owner's Lot or on a handheld leash when in the Common Areas. This provision may be made more restrictive by rule of the Association.

Section 8.5. Use of Common Area Except for the rights of ingress and egress, Home Owners are hereby prohibited and restricted from using any of said Common Area, other than as permitted in this declaration of covenants or as may be allowed by the Trustees. It is expressly acknowledged and agreed by all parties concerned that this restriction is for the mutual benefit of all Home Owners of Lots in the properties and is necessary for the protection of the interests of all said Home Owners in and to the Common Area.

Section 8.6. Parking No motor vehicle which is inoperable shall be allowed within the Common or Limited Common areas of the Properties. The offending vehicle may be towed and the cost assessed to the Home Owner as any other assessment under this Declaration. Recreational vehicles, boats, travel trailers, commercial vehicles and/or similar property may not be parked within the Properties except as permitted by the current Supplemental Rules and Regulations of the Association. Overnight parking on any street within the Mesas is prohibited.

Section 8.7. Planting and Gardening Planting or gardening may be done by Home Owners

in accordance with the current Supplemental Rules and Regulations of the Association.

Section 8.8. External Apparatus No Home Owner shall cause or permit anything (including, without limitation, awnings, canopies or shutters) to hang, be displayed or otherwise affixed to or placed on the exterior walls or roof or any part thereof, or on the outside of windows or doors, without the prior written consent of the Trustees. This provision may be further expanded upon and defined by the current Supplemental Rules and Regulations of the Association.

Section 8.9. Exterior Television or Other Antennas No exterior radio or other antennas, except one television antenna which shall not exceed four feet in height, per Lot, shall be placed, allowed or maintained upon any Lot or upon any structure or portion of the improvements situated and located upon the properties without prior written approval of the Trustees. No roof attachments of any kind will be allowed except permitted Satellite dishes pursuant to Federal and State laws. Said approval shall be in compliance with Federal Communication Commission (FCC) standards, as the same may be modified from time to time. Nevertheless, all Home Owners must first obtain approval from the Trustees with respect to any exterior antennas or dish.

Section 8.10. Garbage Removal All rubbish, trash and garbage shall be regularly removed from the Lots and shall not be allowed to accumulate thereon. Garbage should be placed in proper containers and reasonably kept out of sight when not in use for garbage collection.

Section 8.11. Oil and Mining Operations No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in the properties of any Lot. No derrick, lift, shaft or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon the properties or any Lot.

Section 8.12. Interior Utilities All utilities, fixtures and equipment installed within a Lot, commencing at a point where the utility lines, pipes, wires, conduits or systems enter boundaries of a Lot, shall be maintained and kept in repair by the Home Owner thereof. A Home Owner shall not do any act or any work that will impair any easement or hereditament nor do any act nor allow any condition to exist which will adversely affect the other Home Owners.

Section 8.13. Leases There are hereby imposed rental restrictions, requirements and limitations within the Association. Any Home Owner, however, currently renting their Living Unit at the date of the recording of this Declaration, may continue to lease or rent their property until such time as they sell, gift, devise or convey their property to any third party or any entity, except for estate planning purposes. After any such conveyance, the property (and its new Home Owner(s)) shall be subjected to this Section. Excepted from the term "conveyance" is a conveyance by a Home Owner into a family trust or similar estate planning entity but only for so long as the life of the Trustor. Thereafter, any property held in such a trust is subject to this rental restriction.

Any lease or rental agreement shall be in writing and shall provide that the terms of the lease shall be subject in all respects to the provisions of this Declaration, the Articles of Incorporation, By-Laws and Supplemental Rules and Regulations of the Association and that any failure by lessee to comply with the terms of such documents shall be a default under the lease. The Association is deemed a third party beneficiary to any lease agreement entered into by an Owner.

In the event the Home Owner fails to remedy the default under their lease agreement, the Association is hereby appointed agent of the Home Owner and may initiate eviction proceedings against Tenant.

The number of rental units in The Mesas shall not exceed ten (10) units at any given time. As stated above, those Living Units currently under lease prior to this amendment shall be granted a grandfather status until the unit is sold, gifted, devised or conveyed to any third party or any entity except for estate planning purposes.

Future rental units shall be approved on a first-come basis. Those wanting to place a Living Unit on the rental waiting list will notify the Secretary of the Association. Any lease or rental agreement shall be in writing and must be presented to the Trustees for approval prior to occupancy. A homeowner, who is approved to lease their Living Unit, will provide a current copy of this Document, current By-Laws, and current Supplemental Rules and Regulations to their tenants. All rental or lease agreements must be for a minimum period of twelve (12) months with any renewal also for a minimum period of twelve (12) months. Except for those grandfathered units mentioned above, a Home Owner will only be allowed to lease their Living Unit for a maximum of three (3) years. At the end of three (3) years, the Home Owner will be required to go back on the waiting list to be allowed to lease their Living Unit for any additional periods. No dormitory type rentals are permitted. No individual room rentals are permitted. No Living Unit shall be rented, leased, or utilized for transient hotel purposes, commercial, or vacation time-share. Further, no Home Owner shall lease or rent less than his or her entire Living Unit.

The Living Units may not be divided into a smaller rental space than the entire unit space. A renter or lessee may not sublet or allow a third-party to occupy the unit. The Association must be notified, through its secretary and/or property management agent, a minimum of two (2) business days prior to any move-in in order to update the Association's records. The terms of the lease shall be subject in all respects to the provisions of this Declaration, the Articles of Incorporation, By-Laws, Policies and Supplemental Rules and Regulations of the Association.

Notwithstanding the above, prior to renting or leasing any townhome, the Home Owner shall occupy their Townhome for at least twelve (12) consecutive months before it qualifies as a permissible rental Townhome. For the purposes of this Declaration "occupy" shall mean that a townhome shall be owned by the same Home Owner(s) for a period of at least twelve (12) consecutive months, whether physically occupied by said Home Owner(s) or not, prior to being made available for the rental or lease.

ARTICLE 9 - AUTHORITY OF TRUSTEES

Section 9.1. Fines The Board shall have the right to levy fines against Home Owners and Lots for violation of the provisions of this Declaration, the By-Laws, or the Supplemental Rules and Regulations of the Association. The amount of the fines shall be determined by the Board and shall be published in a Schedule of Fines. The Board shall have the right to amend the Schedule of Fines from time to time as it sees fit. Fines shall be considered an assessment against the Lot and shall be collectible as an assessment pursuant to Article 4 herein.

Section 9.2. Notice and Hearing In the event of a claimed violation of the Declaration, By-Laws or Supplemental Rules and Regulations as they may be adopted by the Trustees from time

to time governing the Association, a Home Owner or Resident shall be entitled to the following:

a. Notice Written notice specifying the nature of the alleged violation, providing any other appropriate information, and stating the time, date and place at which the Home Owner or Resident will have an opportunity to be heard. Notice shall be given at least fifteen (15) days prior to and no longer than thirty (30) days before the date set for the hearing. The notice may be delivered either personally, by email or by mail. If delivery is made by mail, it shall be deemed to have been delivered five (5) business days after it has been deposited with the U.S. Postal Service (regular mail, postage prepaid), addressed to the Home Owner or Resident at the address given by the member to the Trustees for the purpose of service of notice, or to the address of the Home Owner's or Resident's Unit if no other address has been provided. The address of a Home Owner or Resident for the purposes of notice may be changed from time to time by delivery of written notice to the Trustees.

b. Costs and Assessments If the violation, or the failure to correct or remedy a violation, results, The Board of Trustees may levy fines as indicated in Section 9.1.

c. Final Determination After the hearing has taken place, the Trustees shall determine whether a violation has occurred and, if so, the Trustees may: (1) levy an Assessment or impose conditions which shall become effective not less than five (5) days after the date of the hearing, or (2) take such other action as it may deem appropriate. The voting rights of Home Owners shall be suspended during any period of delinquency of assessments. The determination of the Trustees shall be final.

ARTICLE 10 - EASEMENTS

Section 10.1. Encroachments Each Lot and the property included in the Common and Limited Common Areas shall be subject to an easement for encroachments created by construction, settling and overhangs, as designed or constructed by the original developer/declarant. A valid easement for said encroachments and for the maintenance of same, so long as it stands, shall and does exist. In the event the structure containing Lots is partially or totally destroyed, and then rebuilt the Home Owners of the Lots so affected agree that minor encroachments of parts of the adjacent Lots or common or limited common areas due to construction shall be permitted and that a valid easement for said encroachment and the maintenance thereof shall exist.

Section 10.2. Utilities There is hereby created a blanket easement upon, across, over and under all of the properties for public utility purposes. By virtue of this easement, it shall be expressly permissible for all public utilities serving the properties to lay, construct, renew, operate and maintain conduits, cables, pipes, mains, ducts, wires and other necessary equipment on the properties, provided that all such services shall be placed underground, except that said public utilities may affix and maintain electrical and/or telephone wires, circuits and conduits on, above, across and under roofs and exterior walls. Notwithstanding anything to the contrary contained in this section, no sewers, electrical lines, water lines, or other utilities may be installed or relocated on the properties in such a way as to unreasonably encroach upon or limit the use of the common area or limited common area or any structure thereon. In the initial exercise of easement rights under this Section, a utility shall make reasonable efforts to occupy and use the same physical location or lane as other utilities. After a utility service has initially exercised its easement rights under this Section, the utility shall make reasonable efforts to

occupy and use the same physical location as its prior installations. Should any utility furnishing a service covered by the general easement herein provided request a specific easement by separate recordable document, the Association shall have the right to grant such easement on said property without conflicting with the terms hereof.

Section 10.3. Police, Fire and Ambulance Service An easement is hereby granted to all police, fire protection, ambulance services and all similar persons to enter upon the streets and common and limited common areas in the performance of their duties.

Section 10.4. Maintenance by Association An easement is hereby granted to the Association, its officers, agents, employees and to any maintenance company selected by the Association to enter in or to cross over the common and limited common areas and any Lot to perform the duties of maintenance and repair.

Section 10.5. Other Easements The easements provided for in this Article shall in no way affect any other recorded easement.

ARTICLE 11 - GENERAL PROVISIONS

Section 11.1. Enforcement The Association, or any Home Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration, or any rule of the Association, including but not limited to any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction, either to restrain violation or to recover damages, and against the land to enforce any lien created by these covenants. Failure of the Association or of any Home Owner to enforce any covenant or restriction herein contained or any rule of the Association shall in no event be deemed a waiver of the right of the Association or any Home Owner to do so thereafter.

In the event action, with or without suit, is undertaken to enforce any provision hereof or any rule of the Association, the party against whom enforcement is sought shall pay to the Association or enforcing Home Owner a reasonable attorney's fee.

Section 11.2. Budgets At least annually the board shall prepare and adopt a budget for the association. The board shall present the adopted budget to association members at a meeting of the members. A budget is disapproved if within 45 days after the date of the meeting which the board presents the adopted budget: (a) there is a vote of disapproval by at least 51% of all the allocated voting interests of the lot owners in the association; and (b) the vote is taken at a special meeting called for that purpose by lot owners under the declaration, articles, or By-Laws.

If a budget is disapproved, the budget that the Board last adopted that was not disapproved by members continues as the budget until and unless the Board presents another budget to members and that budget is not disapproved.

Section 11.3. Reserves The Association shall annually, at the annual meeting of lot owners or at a special meeting of lot owners: (i) present the results of its reserve study (whether a review of an existing study or the results of a new one); and (ii) provide an opportunity for lot owners to discuss reserves and to vote on whether to fund a reserve fund and, if so, how to fund it and in what amount. The Association shall prepare and keep minutes of each meeting held under Subsection (6)(a) and indicate in the minutes any decision relating to funding a reserve fund.

Section 11.4. Severability All of said conditions, covenants and restrictions contained in this Declaration shall be construed together, but if any one of said conditions, covenants, or restrictions, or any part thereof, shall at any time be held invalid, or for any reason become unenforceable, no other condition, covenant, or restriction, or any part thereof, shall be thereby affected or impaired; and the Association and Home Owners, their successors, heirs and assigns shall be bound by each article, section, subsection, paragraph, sentence, clause and phrase of this Declaration, irrespective of the invalidity or unenforceability of any other article, section, subsection, paragraph, sentence, clause or phrase.

Section 11.5. Duration The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, or the Home Owner of any Lot subject to this Declaration, their respective legal representatives, heirs, successors, and assigns for a term of twenty (20) years from the date this declaration is recorded, after which time said covenants shall be automatically extended for successive periods of five (5) years.

Section 11.6. Amendment The covenants, conditions and restrictions of this Declaration may be amended by an instrument signed by not less than sixty-seven percent (67%) of the members. Amendments to the Declaration shall be proposed by either a majority of the Trustees or by Home Owners holding thirty percent (30%) or more of the voting rights. The proposed amendment must be reduced to writing and shall be included in the notice of any meeting at which action is to be taken thereon or attached to any request for approval or consent to the amendment. Any amendment must be properly recorded in the records of Washington County, Utah, to become effective.

Section 11.7. Notices Any notice required to be sent under the provisions of this Declaration or the By-Laws shall be deemed to have been properly sent in accordance with the following rules:

a. Electronic: All notices may be sent by email (to the last email address provided by the Home Owner to the Association), unless a homeowner requests that they be notified by U.S. Mail.

b. U.S. Mail: When deposited in the U.S. Mail, postpaid, to the last known address of the person who is entitled to receive it.

Section 11.8. Gender and Grammar The singular, wherever used herein, shall be construed to mean the plural when applicable, and the necessary grammatical changes required to make the provisions hereof apply either to corporations or individuals, men or women, shall in all cases be assumed as though in each case fully expressed.

Section 11.9. Waivers No provision contained in the Declaration shall be deemed to have been waived by reason of any failure to enforce it, irrespective of the number of violations which may occur.

Section 11.10. Topical Headings The topical headings contained in this Declaration are for convenience only and do not define, limit or construe the contents of the Declaration.

These changes apply to all lots in the Mesas Home Owner Association, including Phases 1, 2, 3, 4, & 5.

DATED THIS 27 DAY OF December, 2011.

By the Mesas Home Owner Association

[Signature]
Robert Barnard, President

[Signature]
Jessica Wisecup, Secretary

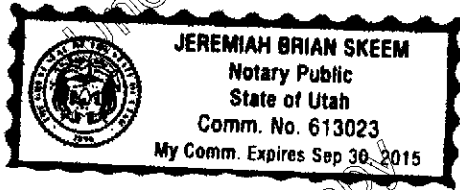
State of Utah

County of Washington

State of Utah
County of Washington

Subscribed and sworn/affirmed to before me
this 27 day of December 2011,
by Robert Wisecup & Jessica Barnard

[Signature]
Notary Public
My Commission Expires 9/30/15



Appendix "A"

"The Plat"

All of THE MESAS, a Planned Unit Development, according to the Declaration of Covenants, Conditions and Restrictions and the Official Plat thereof on file in the office of the Recorder of Washington County, State of Utah.

Appendix "B"
"Legal Description"

The Mesas, an addition to the City of St George, Utah. All of Blocks 14 and 19, Plat "E", St George Survey, together with vacated portions of adjoining streets, St George, Washington County, Utah as recorded with the Washington county Recorder on the 10th day of October, 1985.

Appendix "C"

**THE MESAS TOWNHOME
ASSOCIATION, INC**

BY-LAWS

Approved October 29, 2011

Recorded December 27, 2011

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AMENDED BY-LAWS

OF

THE MESAS TOWNHOME ASSOCIATION, INC.

ARTICLE I
NAME, OFFICES AND AGENT

SECTION 1. Name

The name of the corporation is The Mesas Townhome Association, Inc., hereinafter referred to as the "Association".

SECTION 2. Principal Office

The principal office and place of business of the corporation in the State of Utah shall be located in the City of St. George, County of Washington. The corporation may establish and maintain such other branch or subordinate offices, either within or without the State of Utah, as the Board of Trustees may designate or as the business of the corporation may require from time to time.

SECTION 3. Registered Office

The address of the registered office of the corporation shall be the name listed on the corporate records for the State of Utah or as otherwise designated from time to time. The registered office of the corporation shall be continually maintained in the State of Utah and may be, but need not be, identical within the principal office of the corporation in the State of Utah.

SECTION 4. Registered Agent

The name of the registered agent for service of process shall be the individual or entity filed with the State of Utah's Corporation Division and may change from time to time and shall be made known to the Owners upon request. The registered agent for service of process shall be continually maintained in the State of Utah, and the address of the business office of said agent shall be identical with the address of the registered office of the corporation.

ARTICLE II
DEFINITIONS

SECTION 1. Definitions. All terms in these By-Laws shall be given and read into these By-Laws their defined meaning as such term(s) were defined in the Declaration.

ARTICLE III
MEETINGS OF MEMBERS

SECTION 1. Annual Meetings

There shall be at least one (1) annual meeting of the members. Its time, date and location are to be determined by the Trustees (sometimes called the Board). However, best efforts should be used to hold the meeting at a similar time of year and location, as the situation allows. If for any reason the election of Trustees shall not be held on the day designated herein for any annual meeting of the members, or at any adjournment thereof, the Board of Trustees shall cause the election to be held at a special meeting of the members as soon thereafter as is convenient. Failure to hold any annual meeting of the members at the designated time shall not work a forfeiture or dissolution of the Association; however, if any annual meeting has not been called and held within six months after the time designated for it, any member may call it.

SECTION 2. Special Meetings

Special meetings of the members, for any purpose or purposes, unless otherwise prescribed by the laws of the State of Utah, may be called at any time by the President or by the Board of Trustees, or upon written request of the members who were entitled to vote one-fourth (1/4) of all the votes of the membership. Any call for a special meeting by the President, by the members, or by any designated Officers or persons as provided above, shall be made in writing, signed by the person or persons making the same, and delivered to the Secretary to be duly entered in the records of the Association. No business shall be transacted at any special meeting other than as stated in the purpose of the call, which shall be specified in said Resolution or writing.

SECTION 3. Place of Meeting

The Board of Trustees may designate any place within the County of Washington, State of Utah, as the place of meeting for any annual meeting of the members or for any special meeting of the members called by the Board of Trustees. If no designation is made, or if a special meeting be otherwise called, the place of the meeting shall be the registered office of the Association in the State of Utah.

SECTION 4. Notice of Meetings

Written or printed notice of each meeting of the members, stating the place, day and hour of the meeting and, in case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered not less than fifteen (thirty days for annual meetings) nor more than fifty days before the date of the meeting, by mail, by or at the direction of the President, the Secretary, or the Officer or other persons calling the meeting, to each member entitled to vote at such meeting. Such notice shall be deemed to be delivered when deposited in the United States Mail addressed to the member at the member's address last appearing on the books of the Association, or supplied by such member to the Association, for the purpose of notice, with postage thereon prepaid.

SECTION 5. Waiver of Notice

Any member who is entitled to receive notice of a meeting may waive said notice of the meeting, either before or after such meeting of the members, by signing a written waiver of notice of such meeting; and this waiver shall be deemed to be the equivalent of giving notice of such meeting. Attendance at a meeting of the members, either in person or by proxy, of a person entitled to notice shall constitute a waiver of notice of the meeting unless said member attends for the express purpose of objecting to the transaction of business on the ground that the meeting was not lawfully called or convened. When all of the members of the Association are present at any meeting however called or notified, either in person or by proxy or if those not present sign in writing a waiver of notice of such meeting, the business transacted at such meeting shall be as valid as if had at a meeting duly called and noticed pursuant to these By-Laws and the laws of the State of Utah.

SECTION 6. Quorum

The presence at any meeting of members entitled to cast, or of proxies entitled to cast, one-tenth (1/10) of the votes of the membership (excluding those whose voting privileges have been suspended as provided in the Declaration) shall constitute a quorum for any action except as otherwise provided in the Certificate of Incorporation, the Declaration or these By Laws and the laws of the State of Utah.

SECTION 7. Adjournment of Meeting for Lack of Quorum

If a quorum, as provided above, shall not be present or represented at any meeting, the members entitled to vote there at shall have power to adjourn the meeting from time to time without further notice. Notice of the subsequent adjourned meeting to be had and of the business to be transacted at such adjourned meeting shall be given by any methods which produces actual notice thereof or by the method of notice provided for herein in Section 4 of this Article III. In the event a quorum shall be represented at such subsequent adjourned meeting, any business may be transacted at said meeting which might have been transacted at the meeting as originally called and noticed.

SECTION 8. Voting List

The Officer or other person or persons having charge of the books of the Association may make a complete list of the members entitled to vote at each meeting of member or any adjournment thereof, arranged in alphabetical order, with the address of each such member. For a period of fifteen days prior to each meeting, the Voting List shall be kept on file at the registered office of the Association and shall be subject to inspection by any member at any time during the usual business hours. Such list shall also be produced and kept open at the time and place of the meeting and shall be subject to the inspection by any member during the whole time of the meeting for the purposes thereof.

SECTION 9. Proxies

At all meetings of members, a member may vote either in person or by proxy executed in writing by the member or by the member's duly authorized attorney in fact. Such proxy shall be filed with the Secretary of the Association before or at the time of the meeting. Every proxy shall be revocable and shall automatically cease upon conveyance by the member of such member's Lot. No proxy shall be valid after eleven months from the date of its execution, unless otherwise provided in the proxy itself.

SECTION 10. Action by Written Ballot

Any action to be taken at a meeting of the members, whether regular or during a special meeting, may be conducted by written ballot alone or by a written ballot in connection with an actual meeting consistent with Utah's Nonprofit Corporations Act, Title 16, Chapter 6a, as may be amended from time to time.

SECTION 11. Voting Contracts Invalid

A written contract between two or more members of this Association concerning the manner in which the parties thereto shall vote on any matter requiring membership action shall be invalid and unenforceable.

SECTION 12. Voting Trusts Prohibited

Members of this Association shall be prohibited from creating voting trusts for the purpose of conferring upon a trustee or trustees the right to vote or otherwise represent their voting rights; provided however, that nothing herein contained shall prevent voting by proxy.

ARTICLE IV
BOARD OF TRUSTEES: SELECTION; TERM OF OFFICE

SECTION 1. Number of Trustees

The internal affairs of this Association shall be organized, managed and controlled by a Board of Trustees consisting of five (5) Trustees to be elected by the members. The number of Trustees may be increased or decreased from time to time by amendment to these By-Laws; provided, however, that the total number of Trustees shall not be less than five (5) nor more than nine (9).

SECTION 2. Qualifications

A minimum of two thirds of the required Board members must be homeowners. It is a requirement that a homeowner be current with their assessments in order to be elected to the Board of Trustees.

SECTION 3. Term of Office

At each annual meeting of members, the members shall elect new Trustees to fill any positions that are expiring in any given year. The terms of the Trustees shall be staggered pursuant to a resolution adopted by the Trustees. Said resolution cannot change during the tenure of any Trustee, as it relates to the term a particular Trustee, and shall serve as the guidelines to be adhered to with respect to the term(s) of each Trustee. This provision is intended to allow continuity on the Board by having a certain number of experienced Trustees stay in office while new Trustees have been elected. Trustees are elected to a term of three (3) years. In the event that no Trustees are elected to fill expired any terms (due to lack of quorum, apathy, etc.) then the Trustee(s) whose term was expiring shall remain in office until a new Trustee is elected (unless he or she first resigns) at the next annual meeting.

SECTION 4. Removal

At a meeting of members called expressly for that purpose, any Trustee or the entire Board of Trustees may be removed with or without cause, by the same number of votes of the members of the Association that is required to elect Trustees.

SECTION 5. Resignations

Any Trustees may resign at any time. Such resignation shall be made in writing and shall take effect at the time specified therein; and if no time is specified, at the time of its receipt by the President or Secretary. The acceptance of any resignation shall not be necessary to make it effective. Any vacancy in the membership of the Board of Trustees arising hereunder may be filled by the method provided for herein in Section 6 of this Article 11.

SECTION 6. Vacancies

Any vacancy occurring in the Board of Trustees may be filled by the affirmative vote of a majority of the remaining Trustees though less than a quorum of the Board of Trustees. A Trustee elected to fill a vacancy shall be elected to hold office for the unexpired term of such Trustee's predecessor in office. Any Trusteeship to be filled by reason of any increase in the number of Trustees by amendment to these By-Laws at a meeting of members shall be filled by the member at such meeting for a term of office continuing only until the next election of Trustees by the members. If by reason of death, resignation or other cause the Association shall at any time have no Trustees in office, then any member may call a special meeting of members in accordance with the provisions of these By-Laws and in accordance with the laws of the State of Utah for the election of Trustees.

SECTION 7. No Compensation to Trustees

Before a Trustee of this non-profit corporation shall be paid or receive directly or indirectly any profit or pecuniary advantage for any service which may be rendered to the Association; the Board of Trustees will solicit a minimum of two additional bids for said service, and select from these bids, the entity that will best perform the service. However, any Trustee may be reimbursed for actual expenses incurred in the performance of duties.

ARTICLE V
NOMINATION AND ELECTION OF TRUSTEES

SECTION 1. Nomination

Nomination for election to the Board of Trustees shall be made by a Nominating Committee. 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 Trustees, and two or more members of the Association. The Nominating Committee shall be appointed by the Board of Trustees prior to each annual meeting until the close of the next annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Trustees 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 from among members or non-members.

SECTION 2. Election

Election to the Board of Trustees shall be by secret written ballot. At such election, the members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

ARTICLE VI
MEETINGS OF TRUSTEES

SECTION 1. Regular Meeting

Regular meetings of the Board of Trustees shall be held monthly. The Board of Trustees may provide, by Resolution or otherwise, the time and place, either within or without the State of Utah, for the holding of such regular meetings without other notice than said Resolution or other action. An annual regular meeting of the Board of Trustees shall be held, without other notice than this By-Law, immediately after, and at the same place as, the annual meeting of the members. At such regular meetings, the Board of Trustees shall elect Officers and transact such other business as may come before the meetings.

SECTION 2. Special Meetings

Special meetings of the Board of Trustees, for any purpose or purposes, unless otherwise prescribed by the laws of the State of Utah, may be called at any time by or at the request of the President or any two Trustees. The person or persons calling a special meeting of the Board of Trustees may designate any place, either within or without the State of Utah, as the place for holding any such special meeting of the board of Trustees called by them. If no designation is made, the place of meeting shall be the registered office of the Association in the State of Utah.

SECTION 3. Notice of Meetings

No notice of any regular meeting of the Board of Trustees need be given other than that which is provided in these By-Laws or in the Resolution or other action of the Board of Trustees as set forth above. Notice of any special meeting shall be given at least three days prior thereto by written or printed notice stating the place, day and hour of such special meeting and the purpose or purposes for which such meeting is called, which shall be delivered to each Trustee, either personally or by mail. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail addressed to the Trustee at the Trustee's business or home address as it appears on the books of the Association, with postage thereon prepaid. If the address of any such Trustee does not appear on the books of the Association and is unknown to the person mailing such notice, such notice shall be deemed to be delivered when deposited in the United States mail addressed to the Trustee at General Delivery, St. George, Utah, with postage thereon prepaid.

SECTION 4. Waiver of Notice

Any Trustee who is entitled to receive notice of a special meeting may waive said notice of the meeting, either before or after such special meeting, by signing a written waiver of notice of such meeting; and this waiver shall be deemed to be the equivalent of giving notice of such meeting. Attendance at a special meeting of the Board of Trustees of a person entitled to such notice shall constitute a waiver of notice of the meeting unless said Trustee attends for the express purpose of objecting to the transaction of business on the ground that the special meeting was not lawfully called or convened. When all of the members of the Board of Trustees of the Association are present at any special meeting, or if those not present sign in writing a waiver of notice of such meeting, the business transacted at such special meeting shall be as valid as if had at a special meeting duly called and noticed pursuant to these By-Laws and the laws of the State of Utah.

SECTION 5. Quorum

A majority of the number of Trustees, as elected and still in good standing in accordance with these By-Laws in Section 1 of Article IV, must be present to constitute a quorum for the transaction of business at any meeting of the Board of Trustees.

SECTION 6. Adjournment of Meeting for Lack of Quorum

If the number of Trustees necessary to constitute a quorum, as specified above, shall fail to attend any meeting of the Board of Trustees, a majority of the Trustees present may adjourn the meeting from time to time without further notice. Notice of the subsequent adjourned meeting to be had and of the business to be transacted at such adjourned meeting shall be given by any method which produces actual notice thereof or by the method of notice provided for herein in Section 3 of this Article VI. In the event a quorum shall be present at such subsequent adjourned meeting, any business may be transacted at said meeting which might have been transacted at the meeting as originally called.

SECTION 7. Board Decisions

At all meetings of the Board of Trustees at which a quorum is present, all questions and issues shall be decided by the affirmative vote of a majority of the members of the Board of Trustees present at such meeting; and the same shall be the act of the Board of Trustees for all purposes, except when otherwise provided by these By-Laws and the laws of the State of Utah.

SECTION 8. Action without a Meeting

Any action required to be taken at a meeting of the Board of Trustees, or any other action which may be taken at a meeting of the Board of Trustees, may be taken without a meeting if a consent in writing, setting forth the actions so taken, shall be signed by all of the members of the Board of Trustees; and such consent shall have the same force and effect as a unanimous vote of all of the members of the Board of Trustees.

SECTION 9. Presumption of Assent

All Trustees of the Association who are present at a meeting of the Board of Trustees at which action on any corporate matter is taken are presumed to have assented to the action taken unless their dissent is entered in the minutes of the meeting or unless they file a written dissent to such action with the Secretary of the meeting before the adjournment thereof. The right to dissent does not apply to a Trustee who voted on the prevailing side.

ARTICLE VII
POWERS AND DUTIES OF THE BOARD OF TRUSTEES

SECTION 1. Powers of Trustees

The Board of Trustees shall have the following powers to the extent not set forth in the Declaration:

- (a) to adopt and publish rules and regulations governing the use of the Common Area and facilities, and the personal conduct of the members and their guests thereon, and to establish penalties for the infraction thereof;
- (b) to suspend the voting rights and right to use of the recreational facilities of a member during any period in which such member shall be in default in the payment of any assessment levied by the Association. Such rights may also be suspended after notice and hearing, for period not to exceed sixty days for infraction of published rules and regulations;
- (c) to exercise for the Association all powers, duties and authority vested in or delegated to this Association and not reserved to the membership by other provisions of these By-Laws, the Certificate of Incorporation, or the Declaration;
- (d) to declare the office of a member of the Board of Trustees to be vacant in the event such member shall be absent from three consecutive regular meetings of the Board of Trustees; and

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

SECTION 2. Additional Powers of Trustees

In addition to the powers and authorities expressly conferred upon the Trustees by these By-Laws and by the laws of the State of Utah, the Trustees are hereby empowered to exercise all such powers and to perform all such acts as may be exercised or performed by the Association pursuant to the laws of the State of Utah, subject to any exceptions and restrictions contained in the Declaration, these By-laws and the Certificate of Incorporation of this Association.

SECTION 3. Duties of Trustees

The following shall be the duties of the Board of Trustees:

- (a) to 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 who are entitled to vote;
- (b) to supervise all Officers, agents and employees of this Association, and to see that their duties are properly performed;
- (c) as more fully provided in the Declaration and hereinafter, to:
 - (1) fix the amount of the annual assessment against each Lot at least thirty days in advance of each annual assessment period;
 - (2) send written notice of each assessment to every Owner subject thereto at least thirty days in advance of each annual assessment period; and
 - (3) foreclose, if deemed in the Association's best interests, the lien against any property for which assessments are not paid within thirty days after due date or to bring an action at law against the Owner personally obligated to pay the same.
- (d) to 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 for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment;
- (e) to procure and maintain adequate liability and hazard insurance on property owned by the Association;
- (f) to cause all Officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate;

(g) to cause the Common Area to be maintained;

(h) to cause the exterior trim, and only the trim, of the residences and the covered parking spaces to be maintained. The scope of the term "trim" may be further defined by resolution of the Trustees.

SECTION 4. Performance of Duties - Indemnification

All Trustees shall perform their duties as Trustees, as set forth herein and pursuant to the laws of the State of Utah, including their duties as members of any committee of the Board upon which they may serve, in good faith, in a manner they reasonably believe to be in the best interests of the Association and with such care as an ordinarily prudent person in a like position would use under similar circumstances. In performing their duties, the Trustees may rely on information, opinions, reports or statements, including financial statements and other financial data, in each case prepared or presented pursuant to the laws of the State of Utah. Trustees shall be indemnified and held harmless by the Association from claims from members and non-members alike and the Association shall pay all costs of defense and/or liability found upon the Trustees unless the liability was due to intentional misconduct or gross negligence and proven in a court of law.

ARTICLE VIII
OFFICERS AND THEIR DUTIES

SECTION 1. Enumeration of Offices

The Officers of the Association shall be a President, a Vice-president, a Secretary and a Treasurer, each of whom shall be elected by the Board of Trustees. Such other Officers and assistant Officers as may be deemed necessary from time to time may be created by Resolution and elected or appointed by the Board of Trustees.

SECTION 2. Qualifications

The President and the Vice-President of this Association shall at all times be homeowner members of the Board of Trustees of this Association.

SECTION 3. Election and Term of Office

The Officers of the Association shall be elected annually by the Board of Trustees. This election will take place at the next meeting of the Board of Trustees, to be held within a reasonable time after each annual meeting of the members. Each officer shall hold office for one year or until a successor shall have been duly elected and qualified, unless such Officer shall sooner resign, or shall be removed, or otherwise disqualified to serve.

SECTION 4. Special Appointments

The Board of Trustees 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 may, from time to time, determine.

SECTION 5. Removal

Any Officer may be removed by the Board of Trustees with or without cause whenever, in their judgment, the best interest of the Association will be served thereby.

SECTION 6. Resignations

Any Officer may resign at any time. Such resignation shall be made in writing and shall take effect at the time specified therein; and if no time is specified, at the time of its receipt by the Board of Trustees, the President or the Secretary. The acceptance of a resignation shall not be necessary to make it effective. Any vacancy in any Office arising hereunder may be filled by the method provided for herein in Section 7 of this Article VIII.

SECTION 7. Vacancies

A vacancy in any Office because of death, resignation, removal, disqualification or otherwise, may be filled by appointment by the board of Trustees for the unexpired portion of the term of such Office.

SECTION 8. 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 in the case of special Offices created pursuant to Section 4 of this Article VIII.

SECTION 9. President

The President shall be the principal executive Officer of the Association and, subject to the control of the Board of Trustees, shall, in general, supervise and control all of the business and affairs of the Association. The President shall preside at all meetings of the members and of the Board of Trustees. The President shall sign, with the Secretary or any other proper Officer of the Association so authorized by the Board of Trustees, all leases, deed, mortgages, bonds, contracts, or other instruments and shall co-sign all checks and promissory notes, which the Board of Trustees may authorize to be executed, except in cases where the signing and execution thereof shall be expressly delegated by the Board of Trustees or by these By-Laws to some other Officer or agent of the Association, or shall be required by the laws of the State of Utah to be otherwise signed or executed, and in general, shall perform all duties incident to the Office of President and such other duties as may be prescribed by the board of Trustees from time to time.

SECTION 10. Vice-President

In the absence of the President or in the event of the President's death, inability or refusal to act, the Vice-president shall perform the duties of the President, and when so acting, shall have all the powers of and be subject to all the restrictions upon the President. The Vice-President shall perform such other duties as from time to time may be assigned to said Vice-President by the President or by the Board of Trustees.

SECTION 11. Secretary

The Secretary shall: (a) record the votes and keep the minutes of all meetings and proceedings of the members and of the board of Trustees in one or more books provided for that purpose; (b) see that all notices are duly given in accordance with the provisions of these By-Laws or as required by law; (c) be custodian of the corporate records; (d) keep a register of the current post office address of each member, which shall be furnished to the Secretary by such member; and (e) in general, perform all duties incident to the Office of Secretary and such other duties as from time to time may be assigned to said Secretary by the President or by the Board of Trustees.

SECTION 12. Treasurer

The Treasurer shall (a) have charge and custody of and be responsible for all funds and securities of the Association, though the Treasurer's signature is not required on any checks of the Association as long as at least two Trustees/Officers have signed the check. In the event the Treasurer signs a check, another Trustee/Officer must sign as well; (b) receive and give receipts for monies due and payable to the Association from any source whatsoever, and deposit all such monies in the name of the Association in such banks, trust companies or other depositories as shall be selected in accordance with the provisions of these By-Laws and in accordance with the laws of the State of Utah; (c) disburse such funds as directed by Resolution of the Board of Trustees; (d) keep proper books of accounting; (e) at the completion of each fiscal year, the Treasurer will cause an annual audit of the Association books to be made by a public accountant approved by the Board of Trustees (f) prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular annual meeting, and deliver a copy of each to the members; and (g) in general, perform all of the duties incident to the Office of Treasurer and such other duties as from time to time may be assigned to said Treasurer by the President or by the Board of Trustees. If required by the Board of Trustees, the Treasurer shall give a bond for the faithful discharge of these duties in such sum and with such surety or sureties as the Board of Trustees shall determine.

SECTION 13. Assistant Secretaries and Assistant Treasurers

Assistant Secretaries and Assistant Treasurers shall, in general, perform such duties as shall be assigned to them by the Secretary or the Treasurer, respectively or by the President or the Board of Trustees. Assistant Treasurers shall, if required by the Board of Trustees, give bonds for the faithful discharge of their duties in such sums and with such sureties as the Board of Trustees shall determine.

SECTION 14. Delegation of Duties

Whenever an Officer is absent, or whenever for any reason the Board of Trustees may deem it desirable, the Board of Trustees may delegate the powers and duties of an Officer to any other Officer or Officers or to any Trustee or Trustees.

ARTICLE IX
TRANSACTION OF BUSINESS

SECTION 1. Corporate Property

The Board of Trustees, through and on behalf of the Association, shall have the power to purchase, take, receive, lease, or otherwise acquire, own, hold, improve, use and otherwise deal in and with, real or personal property, or any interest therein, wherever situated; and to sell, convey, mortgage, pledge, lease, exchange, transfer and otherwise dispose of all or any part of the Association's property and assets, subject to the limitations and conditions contained herein in Section 4 of this Article IX.

SECTION 2. Corporation Obligations

The Board of Trustees, through and on behalf of the Association, shall have the power to make contracts and guarantees and incur liabilities, borrow money, at such rates of interest as the Board of Trustees may determine, issue notes, bonds and other obligations in the name of the Association, and secure any of the Association's obligations by mortgage or pledge of all or any part of the Association's property, franchises and income, subject to the limitations and conditions contained herein in Section 4 of this Article IX.

SECTION 3. Loans

The Board of Trustees, through and on behalf of the Association, shall have the power to lend money for the Association's purposes, invest and reinvest its funds, and take and hold real and personal property as security for the payment of funds so loaned or invested. Likewise, the Board of Trustees may procure loans on behalf of the Association.

SECTION 4. Complete Disposition of Corporate Assets

The sale, lease, exchange, mortgage, pledge or other disposition of all, or substantially all, the property and assets of the Association shall only be made upon such terms and conditions and for such considerations as may be authorized pursuant to the affirmative vote of at least two-thirds (2/3) of the members of the Association. Any such sale, lease, exchange, mortgage, pledge or other disposition of any of the Common Area shall be subject to the rights of egress and ingress of the members.

SECTION 5. Execution of Instruments

The Board of Trustees may authorize any Officer or Officers to enter into any contract or to execute and deliver any instrument in the name of and on behalf of the Association, and such authority may be general or confined to specific instances. All checks, drafts or other orders for the payment of money, notes or other evidences of indebtedness issued in the name of the Association shall be signed by such Officer or Officers of the Association and in such manner as shall from time to time be determined by Resolution of the Board of Trustees.

SECTION 6. Deposit of Funds

All funds of the Association not otherwise employed shall be deposited from time to time to the credit of the Association in such banks, trust companies or other depositories as the Board of Trustees may select.

SECTION 7. Gifts

The Board of Trustees may accept on behalf of the Association any contribution, gift, bequest or devise for the general purposes or for any special purpose of the Association.

SECTION 8. Fundamental Corporate Changes

The following fundamental corporate changes shall only be made by the Board of Trustees pursuant to the approval of the members of the Association by the affirmative vote of at least two-thirds (2/3) of each class of members of the Association: (a) merger or consolidation of the Association and (b) dissolution of the Association.

SECTION 9. Books, Records and Financial Statements

The Board of Trustees, or such Officer or other person as they may designate, shall keep correct and complete books and records of account of the Association's business and affairs; shall keep and present a financial statement at the annual meeting of the members, including any operating or profit and loss statements, together with an assessment of all assets and liabilities; and shall also keep minutes of the proceedings of its members, Board of Trustees and committees having any of the authority of the Board of Trustees. Any books, records and financial or other statements may be in written form or in any other form capable of being converted into written form within a reasonable time.

SECTION 10. Right of Inspection

Any member of the Association, upon written demand stating the purpose thereof, shall have the right to examine, in person, or by agent or attorney, at any reasonable time or times, for any proper purpose, the Association's books and records of account, minutes and record of members and to make extracts there from. Upon the written request of any member of the Association, the Board of Trustees or such Officer or other person as they may designate, shall mail to such member the most recent financial statements of the Association showing in reasonable detail the assets and liabilities and the results of operations. The said member may be charged a reasonable cost for the reproduction of said documents.

SECTION 11. Indemnification of Trustees and Officers

This Association shall have the power to indemnify any Trustee or Officer or former Trustee or Officer of the Association against liability and expenses actually and necessarily incurred by such person in connection with the defense of any action, suit or proceeding in which such person is made a party by reason of being or having been a Trustee or Officer of the Association, except in relation to matters as to which said person shall be adjudged in such action, suit or proceeding to be liable for misconduct in the performance of duty; but such indemnification shall not be deemed exclusive or any other rights to which such Trustee

or Officer may be entitled, under any By-Law, agreement, vote of the Board of Trustees or the members, or otherwise.

SECTION 12. Distribution of Assets on Dissolution

In the event of dissolution of this Association, the Board of Trustees shall arrange for the payment of all debts and liabilities of the Association out of the Association's assets. Any and all remaining assets shall be dedicated to an appropriate public agency to be used for purposes similar to those for which this Association was created. In the event that such dedication is refused acceptance, such assets shall be disposed of by the Board of Trustees exclusively for the purposes of the Association in such manner and to such organizations, which qualify as exempt organizations under the United States Revenue Laws as said Board of Trustees shall determine to be used for purposes similar to those for which this Association was created. Any dissolution shall be disposed of by the District Court of the Fifth Judicial District within and for the County of Washington, State of Utah, exclusively for such purposes and to such organizations hereinabove set forth, as said Court shall determine.

SECTION 13. Nonprofit Corporation Status

This Association is not organized for any pecuniary profit whatsoever; and it shall not have any power to issue certificates of stock or declare dividends. The Association shall only be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes hereinabove set forth. The balance, if any, of all money received by the Association from its operations or otherwise, after the payment in full of all debts and obligations of whatever kind or nature, shall be used and distributed exclusively for the purposes of the Association in such manner and to such organizations, which qualify as exempt organizations under the United States Internal Revenue laws, as the Board of Trustees shall determine, to be used for purposes similar to those for which this Association was created. No part of the net earnings of this Association, if any, shall inure to the benefit of any Member, Trustee, Officer or other individual.

ARTICLE X
COMMITTEES

The Association shall appoint an Architectural Control Committee, as provided in the Declaration, and a Nominating Committee, as provided in these By-Laws. In addition, the Board of Trustees shall appoint other committees as deemed appropriate in carrying out its purpose

ARTICLE XI
BOOKS AND RECORDS

The books, records and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any member upon at least five (5) days notice. The Declaration, the Certificate of Incorporation and the By-Laws of the Association shall be available for inspection by any member at the principal office of the Association, where copies may be purchased at reasonable cost.

ARTICLE XII
WAIVER OF NOTICE

Whenever any notice is required to be given to any member or Trustee of this Association under the provisions of the laws of the State of Utah or under the provisions of the Certificate of Incorporation or these By-Laws, a waiver thereof in writing signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be equivalent to the giving of such notice.

ARTICLE XIII
AMENDMENTS

SECTION 1. These By-Laws may be amended, at a regular or special meeting of the members, by an instrument signed by not less than sixty-seven percent (67%) of the members.

SECTION 2. In the case of any conflict between the Certificate of Incorporation and these By-Laws, the Certificate shall control, and in the case of any conflict between the Declaration and these By-Laws, the Declaration shall control.