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**RESIDENTIAL DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS  
FOR CORAL CANYON**

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TABLE OF CONTENTS

00679603 Ek 1363 Pg 1080

	<b>Page</b>
ARTICLE 1	DEFINITIONS ..... 2
ARTICLE 2	PROPERTY SUBJECT TO DECLARATION ..... 6
2.1	General Declaration..... 6
2.2	Property Not Subject to Residential Declaration..... 6
2.3	Exempt Property..... 7
2.4	Master Residential Association Bound ..... 7
2.5	Leases ..... 7
2.6	SITLA..... 7
2.7	Incorporation of Recitals ..... 7
ARTICLE 3	TRACT DECLARATIONS; CHANGES IN COVERED PROPERTY ..... 7
3.1	Additions to Covered Property ..... 7
3.2	Tract Declarations ..... 8
3.3	No Obligation to Add Property ..... 8
3.4	De-Annexation ..... 8
3.5	Land Use Classifications ..... 9
3.6	Subsidiary Associations ..... 10
3.7	Conveyance of Common Areas..... 10
ARTICLE 4	CORAL CANYON COMMON AREAS; EASEMENTS ..... 10
4.1	Easements and Rights of Enjoyment..... 10
4.2	Procedure for Changes to Coral Canyon Residential Common Areas ..... 11
4.3	Easements for Encroachments..... 12
4.4	Right of Ingress and Egress..... 12
4.5	Utility Easements ..... 12
4.6	Waiver of Use..... 12
ARTICLE 5	USE RESTRICTIONS ..... 12
5.1	General Covenants ..... 13
5.2	Certain Exemptions ..... 19
5.3	Variances..... 20
ARTICLE 6	GOLF COURSE PROVISIONS ..... 20
6.1	Disclaimers Regarding Golf Courses ..... 20
6.2	Rights of Access and Parking..... 21
6.3	Limitations on Amendments ..... 21
6.4	Golf Cart Path Easement ..... 21

**TABLE OF CONTENTS**  
(continued)

	<b>Page</b>
6.5	21
6.6	22
ARTICLE 7	22
7.1	22
7.2	22
7.3	22
7.4	22
7.5	23
7.6	23
7.7	24
7.8	26
7.9	26
7.10	27
7.11	27
7.12	27
7.13	27
7.14	27
7.15	30
ARTICLE 8	31
8.1	31
8.2	32
8.3	32
8.4	32
8.5	32
8.6	32
8.7	33
8.8	33
8.9	33
8.10	33
ARTICLE 9	33
9.1	33

**TABLE OF CONTENTS  
(continued)**

	<b>Page</b>
9.2 Reserve Contribution.....	34
9.3 Annual Assessments.....	34
9.4 Special Assessments for Capital Improvements and Extraordinary Expenses.....	34
9.5 Establishment of Assessment Period.....	34
9.6 Billing and Collection Procedures.....	34
9.7 Collection Costs and Interest on Delinquent Assessment.....	35
9.8 Evidence of Payment of Assessments.....	35
9.9 Exempt Property.....	35
9.10 Declarant's Exemption.....	36
9.11 SITLA Exemption.....	36
<b>ARTICLE 10 ENFORCEMENT OF RESIDENTIAL DECLARATION.....</b>	<b>36</b>
10.1 Enforcement of Provisions of This and Other Instruments.....	37
10.2 Master Residential Association's Remedies to Enforce Payment of Assessments.....	37
10.3 Subordination of Assessment Lien.....	37
<b>ARTICLE 11 TERM; AMENDMENTS; TERMINATION.....</b>	<b>37</b>
11.1 Term; Method of Termination.....	37
11.2 Amendment of Residential Declaration and Tract Declarations.....	38
11.3 Amendment of Articles and Bylaws.....	38
11.4 Right of Amendment if Requested by Governmental Agency or Federally Chartered Lending Institutions.....	38
<b>ARTICLE 12 MISCELLANEOUS.....</b>	<b>39</b>
12.1 Interpretation of the Covenants.....	39
12.2 Severability.....	39
12.3 Change of Circumstances.....	39
12.4 Declarant's Disclaimer of Representations.....	39
12.5 No Warranty of Enforceability.....	39
12.6 References to the Covenants in Deeds.....	40
12.7 Gender and Number.....	40
12.8 Captions and Titles.....	40
12.9 Notices.....	40
12.10 Use of the Words "Coral Canyon" or "Coral Canyon Community Master Residential Association".....	40

**RESIDENTIAL DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS  
FOR CORAL CANYON**

**THIS RESIDENTIAL DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS is dated March 1st, 2000 and is made by SUNCOR DEVELOPMENT COMPANY, an Arizona corporation and THE STATE OF UTAH, ACTING THROUGH THE SCHOOL AND INSTITUTIONAL TRUST LANDS ADMINISTRATION**

**RECITALS**

A. Declarant desires (but is not obligated) to develop the Coral Canyon Property in stages as a planned area development with residential and commercial areas, together with recreational areas, developed and undeveloped open spaces, and other facilities. However, Developer intends that any golf courses which may be developed (without any obligation to develop) shall not be part of or annexed into the Covered Property, shall not be made subject to this Residential Declaration, and shall not be subject to any assessment or be included in any association.

B. As the development of the Coral Canyon Property proceeds, Declarant intends (but shall not be obligated) to record various subdivision plats; to dedicate portions of the Coral Canyon Property to the public for streets, parks, roadways, drainage, flood control and general public use; to sell Parcels and Lots to various builders and users; and to record Tract Declarations covering portions of the Coral Canyon Property intended for Residential Use, which Tract Declarations will subject such portions of the Coral Canyon Property to this Residential Declaration and designate the purposes for which such portions of the Coral Canyon Property may be used and may set forth additional covenants, conditions and restrictions applicable to such portions of the Coral Canyon Property.

C. Declarant desires to form the Master Residential Association which will (1) own, manage and/or maintain the Coral Canyon Residential Common Areas, if any, and certain other areas in the Covered Property; (2) levy, collect and disburse the Assessments and other charges imposed hereunder; (3) as the agent and representative of Owners, enforce the use restrictions and other provisions of this Residential Declaration; and (4) do such other things as are provided for in this Residential Declaration for the Master Residential Association.

D. Declarant is the lessee of the Covered Property pursuant to the Development Lease and is entered into this Residential Declaration pursuant to Section 5.8(c) of the Development Lease. As fee owner of the Covered Property, SITLA is joining in the Residential Declaration pursuant to Section 5.8(c) of the Development Lease.

E. Declarant intends that the Covered Property shall be held, sold, and conveyed subject to the easements, restrictions, covenants, and conditions in this Residential Declaration, which: (1) are for the purpose of protecting the value, desirability, attractiveness, and natural character of the Covered Property; (2) shall run with the land; (3) shall be binding upon all parties having any right, title, or interest in any part of the Covered Property; and (4) shall inure to the benefit of all parties having any right, title, or interest in any part of the Covered Property, and their successors and assigns.

F. As of the date of recordation of this Residential Declaration, the Covered Property consists of the following:

Lots 1 through 367, inclusive; Parcels C, E, F, H, I, J, K, and L, and HOA Tracts 1-34, CORAL CANYON, PHASE 1, recorded in Book 1363, page 1078 records of Washington County, Utah

NOW, THEREFORE, DECLARANT declares, covenants and agrees as follows:

#### ARTICLE 1 DEFINITIONS

- 1.1 "Annual Assessment" means the regular annual assessments levied by the Board pursuant to Section 9.3.
- 1.2 "Articles" means the Articles of Incorporation of the Master Residential Association, as amended from time to time.
- 1.3 "Assessment" or "Assessments" means an Annual Assessment, Special Assessment, Reserve Contribution, Special Use Fee, or any other fees, fines or charges assessed by the Board pursuant to this Residential Declaration.
- 1.4 "Assessment Lien" means the lien created and imposed by Section 9.1.
- 1.5 "Assessment Period" means the term set forth in Section 9.5.
- 1.6 "Board" means the Board of Directors of the Master Residential Association.
- 1.7 "Bylaws" means the Bylaws of the Master Residential Association, as amended from time to time.
- 1.8 "Common Areas" means the Coral Canyon Residential Common Areas and the Subsidiary Common Areas or any portion thereof.
- 1.9 "Condominium Development" shall mean a portion of the Covered Property which has been subjected to a declaration of condominium pursuant to Utah law.
- 1.10 "Condominium Unit" shall mean a unit (as that term is defined in Utah Code Annotated Section 57-8-3 or any successor statute), together with any appurtenant interest in all common elements, which is created by a declaration of condominium established and recorded under Utah law.
- 1.11 "Coral Canyon Property" means (a) any real property which is within three miles of any point on the exterior of the Coral Canyon Leased Property and which Declarant, in its sole discretion, elects to include within the Coral Canyon planned community development that is being developed by Declarant on the Coral Canyon Leased Property, and (b) the Coral Canyon Leased Property.
- 1.12 "Coral Canyon Leased Property" means any and all real property owned by SITLA and leased to Declarant pursuant to the Development Lease from time to time.

1.13 **"Coral Canyon Residential Common Areas"** means all real property and the improvements or amenities thereon and all personal property and facilities that shall from time to time be owned, controlled, or operated by the Master Residential Association, including but not limited to areas used for landscaping, flood control, drainage, bicycle or jogging paths, parks, recreational areas, open spaces, walkways, perimeter walls and fences, and pedestrian and vehicular ingress and egress, including real property to be dedicated to the public upon expiration of a period of time, but only until such real property is dedicated, and real property with respect to which the Master Residential Association has been granted and accepted easements or other obligations for construction, maintenance or repair, during the time the Master Residential Association has such easements or other obligations. Coral Canyon Residential Common Areas do not include Subsidiary Common Areas.

1.14 **"Covered Property"** means such portions of the Coral Canyon Property as have been subjected to the terms of this Residential Declaration from time to time by recordation of a Tract Declaration with respect thereto, as provided in Section 3.2. The initial Covered Property will be the real property described in Recital F.

1.15 **"Declarant"** means SunCor Development Company, an Arizona corporation and the successors and assigns of Declarant's rights and powers hereunder. Any assignment of all or any portion of Declarant's rights and powers shall be made by a recorded instrument executed by the assignor Declarant and the assignee. The term Declarant shall also include an affiliate of Declarant taking title from SITLA or Declarant for the purpose of conveying a Lot or Parcel to an Owner. The term Declarant shall include SITLA, but only as specifically provided in Section 2.6.

1.16 **"Design Guidelines"** means the standards, guidelines, rules of submittal and related rules and procedures established from time to time by the Design Review Committee in accordance with this Residential Declaration.

1.17 **"Design Review Committee"** means the Design Review Committee of the Master Residential Association created pursuant to Section 7.14.

1.18 **"Development Lease"** means Development Lease No. 610, dated June 30, 1999, between Declarant and SITLA, as it may be amended, supplemented or extended from time to time, and with respect to which a Memorandum of Lease was recorded July 2, 1999, as Entry No. 00653936, in Book 1339, beginning at page 1451, records of Washington County, Utah.

1.19 **"Dwelling Unit"** means any building or portion of a building situated upon a Lot which is designed and intended for use and occupancy as a residence by a Single Family.

1.20 **"Exempt Property"** means the following parts of the Covered Property:

- (a) All Coral Canyon Residential Common Areas, for as long as the Master Residential Association or Declarant is the owner thereof.
- (b) All Subsidiary Common Areas, for as long as a Subsidiary Association or Declarant is the owner thereof.
- (c) Each Parcel with a Land Use Classification of Utility, General Public or Quasi-Public, or Church unless the Tract Declaration establishing such Land Use Classification designates such Parcel having such a Land Use Classification as being subject to Assessments.

1.21 **"Golf Course"** and **"Golf Course Land"** means any golf course real property (as identified in the Master Development Plan) and all improvements thereon, including any clubhouse, pro shop and associated recreational, maintenance and other facilities owned and operated in conjunction with a golf course.

1.22 **"Government Property"** means all land and improvements owned by or dedicated to a public or governmental agency or authority, other than SITLA, for so long as the public or governmental agency or authority is the owner or beneficiary thereof, except for land or improvements, or both, owned or operated by a public or governmental agency or authority acting in a proprietary capacity or owned or operated as a Dwelling Unit.

1.23 **"Land Use Classification"** means the designation of permitted uses within a particular portion of the Covered Property as established in a Tract Declaration recorded for such portion of the Covered Property.

1.24 **"Lot"** means portions of the Covered Property, other than Coral Canyon Residential Common Areas, covered by a recorded Tract Declaration and either (a) designated as a lot on a recorded subdivision plat of a portion of the Covered Property with a Land Use Classification of Single Family Residential or Cluster Residential, or (b) designated as a Condominium Unit within any portion of the Covered Property with a Land Use Classification of Residential Condominium.

1.25 **"Master Residential Association"** means the Utah nonprofit corporation formed by Declarant to function as the Master Residential Association under this Declaration, its successors and assigns.

1.26 **"Master Development Plan"** means the master plan for the development of the Covered Property as approved by each governmental authority with jurisdiction over any portion of the Covered Property, as the same may from time to time be amended, a copy of which shall be on file at all times in the office of the Master Residential Association.

1.27 **"Member"** means any person holding a Membership in the Master Residential Association pursuant to this Residential Declaration.

1.28 **"Membership"** means a membership in the Master Residential Association and the rights granted to the Members pursuant to this Residential Declaration and the Articles and Bylaws of the Master Residential Association.

1.29 **"Owner"** means the record holder of legal, beneficial or equitable title to the fee simple interest of any Lot or Parcel, including, without limitation, one who is buying a Lot or Parcel under a recorded installment land sales contract, but excluding others who hold such title merely as security for the performance of an obligation. Owner shall not include a lessee or tenant of a Lot or Parcel except as provided in Section 2.6. In the case of property, the fee simple title to which is vested of record in a trustee pursuant to Utah Code Annotated Section 57-1-19 *et seq.*, legal title shall be deemed to be the Owner. In the case of property, the fee simple title to which is vested in a trustee pursuant to a trust agreement, the beneficiary of any such trust entitled to possession shall be deemed to be the Owner. An Owner shall include any person who holds record title to a Lot or Parcel in joint ownership with any other person or holds an undivided fee interest in any Lot or Parcel. Owner shall not include a purchaser under a purchase contract and receipt, escrow instructions, or similar executory contract that is intended to control the rights and obligations of the parties to executory contracts pending the closing of a sale and purchase transaction.



1.30 **"Parcel"** means each portion of the Covered Property that is covered by a recorded Tract Declaration, other than Lots and Coral Canyon Residential Common Areas. The term Parcel includes Subsidiary Common Areas.

1.31 **"Reserve Contribution"** means the charge levied and assessed pursuant to Section 9.2.

1.32 **"Resident"** means:

- (a) Each tenant or lessee of an Owner actually residing on any Lot or Parcel, and
- (b) Members of the immediate family of each Owner, lessee, and tenant actually living in the same household with such Owner, lessee, or tenant.

Subject to such rules and regulations as the Board may specify (including the imposition of special nonresident fees for use of Coral Canyon Residential Common Areas if the Master Residential Association shall so direct), the term Resident also shall include the onsite guests or invitees of any such Owner, lessee, or tenant, if and to the extent the Board in its absolute discretion by resolution so directs.

1.33 **"Residential Declaration"** means this Residential Declaration of Covenants, Conditions, and Restrictions for Coral Canyon, as amended or supplemented from time to time.

1.34 **"Residential Use"** means any of the following Land Use Classifications: Single Family Residential, Residential Condominium, Cluster Residential, Common Area, Subsidiary Common Area, Utility, General Public or Quasi-Public, and Church.

1.35 **"Rules"** means the rules and regulations for the Covered Property adopted by the Board pursuant Section 7.11 or any other provision of this Residential Declaration.

1.36 **"Single Family"** means an individual living alone, a group of two or more persons each related to the other by blood, marriage or legal adoption, or a group of not more than three persons not all so related, who maintain a common household in a Dwelling Unit.

1.37 **"SITLA"** means The State of Utah, acting through the School and Institutional Trust Lands Administration, and its successors and assigns as the holder of the rights of the Lessor pursuant to the Development Lease.

1.38 **"Special Assessment"** means any assessment levied and assessed pursuant to Section 9.4.

1.39 **"Special Use Fees"** means any fees charged by the Master Residential Association for the use of the Coral Canyon Residential Common Areas.

1.40 **"Subsidiary Association"** means an association created pursuant to a Tract Declaration with respect to the portion of the Covered Property subject to such Tract Declaration; if the particular Tract Declaration provides for the formation of an association.

1.41 **"Subsidiary Common Areas"** means the following, to the extent located within the portion of the Covered Property subject to a particular Tract Declaration and intended for the exclusive use and enjoyment of all of the Owners and Residents of the portion of the Covered Property subject to the particular Tract Declaration: All real property and the improvements or amenities thereon and all

personal property and facilities, including but not limited to areas used for landscaping, flood control, drainage, bicycle or jogging paths, parks, recreational areas, open spaces, walkways, and pedestrian and vehicular ingress and egress, including real property to be dedicated to the public upon expiration of a period of time, but only until such real property is dedicated, and real property with respect to which a Subsidiary Association has been granted and accepted easements or other obligations for construction, maintenance or repair, during the time the Subsidiary Association has such easements or other obligations.

1.42 **"Tract Declaration"** means a declaration recorded pursuant to Section 3.1, as such declaration may be amended from time to time.

1.43 **"Visible From Neighboring Property"** means, with respect to any given object, that such object is or would be visible to a person six feet tall standing at normal grade level on neighboring property.

## ARTICLE 2 PROPERTY SUBJECT TO DECLARATION

2.1 **General Declaration.** Declarant declares that all of the Covered Property is and shall be held, conveyed, hypothecated, encumbered, leased, occupied, built upon or otherwise used, improved or transferred, in whole or in part, subject to this Residential Declaration. Declarant intends to develop the Covered Property by subdivision into various Lots and Parcels and to sell and convey such Lots and Parcels. This Residential Declaration is declared and agreed to be in furtherance of a general plan for the subdivision, development, improvement and sale of the Covered Property and is established for the purpose of enhancing and perfecting the value, desirability and attractiveness of each portion of the Covered Property. This Residential Declaration shall run with the Covered Property for all purposes and shall be binding upon and inure to the benefit of Declarant, the Master Residential Association, each Subsidiary Association, all Owners and Residents and their respective successors in interest. Nothing in this Residential Declaration shall be construed to prevent Declarant from dedicating or conveying portions of the Covered Property for any purpose whatsoever or from modifying the Master Development Plan or any portions thereof regarding any property owned by Declarant or regarding any portion of the Coral Canyon Property as to which a Tract Declaration has not been recorded.

2.2 **Property Not Subject to Residential Declaration.** Any provision of this Residential Declaration, any Tract Declaration, the Design Guidelines, the Rules, Articles, or the Bylaws to the contrary notwithstanding:

(a) No portion of the Coral Canyon Property shall be subject to this Residential Declaration unless and until a Tract Declaration has been recorded with respect to such portion of the Coral Canyon Property subjecting such portion to this Declaration; and

(b) No Golf Course, Golf Course Land, or Government Property shall be subject to this Residential Declaration.

2.3 **Exempt Property.** All Exempt Property shall be exempt from Assessments (except as provided in Section 9.9) and Membership in the Master Residential Association and its associated privileges and responsibilities, but shall nevertheless be subject to all other provisions of this Residential Declaration, including but not limited to, the use restrictions and architectural controls. The Board may restrict or prohibit the use of the Coral Canyon Residential Common Areas (except any rights-of-way or

drainage areas owned by the Master Residential Association) by the Owners of Exempt Property. This Section may not be amended without the approval of any and all Owners of Exempt Property affected by the amendment.

2.4 Master Residential Association Bound. Upon incorporation of the Master Residential Association, this Residential Declaration shall be binding upon and shall inure to the benefit of the Master Residential Association.

2.5 Leases. Any agreement for the lease of all or any portion of a Lot or Parcel must be in writing and must be expressly subject to this Residential Declaration, the Rules, the Design Guidelines, the Articles and the Bylaws. No lease of a Lot or Parcel for less than 30 days shall be permitted. Any violation of these documents shall be default under the lease. An Owner shall notify the Master Residential Association regarding the existence of all leases. The Owner shall remain liable for compliance with the Residential Declaration, Articles, Bylaws, the Rules and Design Guidelines and shall be responsible for any violations thereof by such Owner's tenant or such Owner's tenant's family and guests. All notices pursuant to this Residential Declaration shall be sent to the Owner. The Development Lease is not subject to the terms of this Section 2.5.

2.6 SITLA. By executing this Residential Declaration, SITLA joins in and consents to this Residential Declaration pursuant to Section 5.8(c) of the Development Lease, for the purpose of subjecting the fee ownership interest in the Covered Property to all of the terms, covenants, conditions, easements, restrictions, servitudes, and other provisions of this Residential Declaration, subject to the limitations contained in Section 9.11. Any other provision of this Residential Declaration to the contrary notwithstanding, unless Declarant specifically assigns to SITLA, and SITLA specifically assumes, the rights and obligations of Declarant under this Residential Declaration, SITLA shall have no rights, obligations or liabilities as Declarant. Upon a termination of the Development Lease, SITLA shall have the right, but not the obligation, to succeed to the rights and obligations of Declarant by executing and recording an Assumption of Declarant's Rights and Obligations with the Washington County Recorder's office, whereupon SITLA shall be entitled to exercise all rights of Declarant under this Declaration, including, without limitation, the right to deannex property pursuant to Section 3.4 and the rights of Declarant as the Class B Member, and shall be subject to all of the obligations of Declarant under this Declaration, including those under Section 9.10. From time to time, as requested by Declarant, SITLA will join in such documents and instruments, including Tract Declarations, as are necessary or appropriate to effectuate or further the intents and purposes of this Residential Declaration. At such times as the Development Lease is in effect as to any portion of the Covered Property and Declarant is the lessee of such portion of the Covered Property, Declarant shall, solely for the purposes of this Residential Declaration, be deemed to be the fee owner of such Covered Property and the Owner of such Covered Property for all purposes of this Residential Declaration. At such time as Declarant is no longer the lessee of any portion of the Covered Property and SITLA is the fee owner of such portion of the Covered Property, SITLA shall be deemed the Owner of such portion of the Covered Property.

2.7 Incorporation of Recitals. The Recitals above are incorporated into and are a part of this Residential Declaration.

### ARTICLE 3

#### TRACT DECLARATIONS; CHANGES IN COVERED PROPERTY

3.1 Additions to Covered Property. Declarant contemplates that one or more portions of the Coral Canyon Property may from time to time be added to the Covered Property (and thereby subjected to

the provisions of this Residential Declaration), and, therefore, while Declarant shall have no obligation or duty to so add all or any portion of the Coral Canyon Property to the Covered Property, Declarant hereby reserves the right, privilege, and option from time to time to add to the Covered Property (and thereby to subject to the provisions of this Residential Declaration) any part(s) of the Coral Canyon Property, but only to the extent intended for and restricted to Residential Use, without the vote of the Members and without notice to or approval of any holder, insurer or guarantor of any lien on any portion of the Covered Property or of any other person or entity, **provided, however**, that the right privilege and option reserved in this Section 3.1 shall expire and terminate at 11:59 p.m. local time on December 31 of the calendar year in which falls the 15th anniversary of the date this Residential Declaration is recorded. Notwithstanding the foregoing, no portion of the Coral Canyon Property may be added to the Covered Property unless, at the time of each and any such addition either: (a) the portion of the Coral Canyon Property to be added is owned by Declarant; or (b) the owner of the portion to be added (if other than Declarant) consents in a written, recorded instrument to such addition.

3.2 **Tract Declarations.** As portions of the Coral Canyon Property are readied for development, Declarant shall record a Tract Declaration for each such portion of the Coral Canyon Property. The Tract Declaration shall subject such portion of the Coral Canyon Property to this Residential Declaration and shall establish the Land Use Classifications for the portion of the Coral Canyon Property to be subject to the Residential Declaration. Tract Declarations may also impose additional covenants, conditions, and restrictions with respect to such portion of the Coral Canyon Property, which may include, without limitation, additional use restrictions, provisions for the formation of a Subsidiary Association, provisions for the use and enjoyment of Subsidiary Common Areas, and provisions for the creation, collection and enforcement of liens for assessments levied by the Subsidiary Association. In addition, Tract Declarations may designate and/or establish (by dedication or otherwise) certain portions of the Coral Canyon Property as Government Property, as determined by Declarant, in Declarant's sole discretion. The terms and conditions of each Tract Declaration shall be determined by Declarant in Declarant's sole and absolute discretion. Each Tract Declaration shall be construed as a supplement to this Residential Declaration and as fully a part of this Declaration as if all of the provisions of the Tract Declaration were set forth in this Residential Declaration; **provided, however**, that the Tract Declaration shall be subject to the terms and conditions of this Residential Declaration.

3.3 **No Obligation to Add Property.** Nothing in this Residential Declaration shall constitute a representation, warranty or covenant that Declarant, any successor or assign of Declarant, or any other person or entity will subject any property (whether or not a part of the Coral Canyon Property) to the provisions of this Residential Declaration, nor shall Declarant, any successor or assign of Declarant, or any other person or entity be obligated so to do, and Declarant may, by recorded instrument executed by Declarant, waive its rights so to do, in whole or in part, at any time or from time to time.

3.4 **De-Annexation.** Notwithstanding any other provision of this Residential Declaration, Declarant shall have the right from time to time, at its sole option and without the consent of any other person or entity (except as provided in this Section 3.4), to delete from the Covered Property and remove from the effect of this Residential Declaration one or more portions of the Covered Property; **provided, however**, that: (a) a portion of the Covered Property may not be so deleted and removed unless at the time of such deletion and removal such portion is owned by Declarant or, if Declarant is not the owner, the owner executes and records an instrument approving such deletion and removal; (b) a portion of the Covered Property may not be so deleted and removed unless at the time of such deletion and removal no Coral Canyon Residential Common Area recreational facilities have been constructed thereon; and (c) a portion of the Covered Property may not be so deleted and removed if such deletion and removal would deprive an Owner or Resident of another part of the Covered Property of access or other easements or right-of-way necessary to the continued use of each such Owner's or Resident's respective part of the

Covered Property (unless Declarant at the same time provides for reasonably adequate replacement easements or right-of-way). Declarant may exercise its rights under this Section 3.4 by executing and recording an instrument which identifies the portion of the Covered Property to be so deleted and removed and which is executed by each owner of such portion (if other than Declarant), and the deletion and removal of such portion of the Covered Property shall be effective upon the later of: (i) the date such instrument is recorded; or (ii) the effective date specified in such instrument, if any, whereupon the portion of the Covered Property so deleted and removed shall thereafter for all purposes be deemed not a part of the Covered Property and not subject to this Residential Declaration, and the owner(s) thereof (or of interests therein) shall not be Owners or Members or have any other rights or obligations hereunder except as members of the general public. No such deletion and removal of a portion of the Covered Property shall act to release such portion from the lien for Assessments or other charges hereunder which have accrued prior to the effective date of such deletion and removal, but all such Assessments or other charges shall be appropriately prorated to the effective date of such deletion and removal and no Assessments or other charges shall thereafter accrue hereunder, with respect to the portion of the Covered Property so deleted and removed. Each portion of the Covered Property deleted and removed pursuant to this Section 3.4 shall thereafter be deemed to be a part of the Coral Canyon Property unless otherwise expressly provided to the contrary in the instrument recorded by Declarant to effect such deletion and removal.

3.5 Land Use Classifications. The contemplated Land Use Classifications within the Covered Property are as follows, although Declarant may establish other non-commercial uses as may be specified in the particular Tract Declaration:

(a) Single Family Residential. A Land Use Classification of Single Family Residential is intended for land to be developed as Single Family detached residential housing units and related uses.

(b) Residential Condominium. A Land Use Classification of Residential Condominium is intended for land to be developed as a residential Condominium Development and related uses.

(c) Common Area. A Land Use Classification of Common Area is intended for Coral Canyon Residential Common Areas.

(d) Subsidiary Common Area. A Land Use Classification of Subsidiary Common Area is intended for Subsidiary Common Areas .

(e) Utility. A Land Use Classification of Utility is intended for public and private utility uses, including, but not limited to, related maintenance and storage facilities, and well-sites. A parcel with a Land Use Classification of Utility may be used as a cable headed facility, which facility may include satellite receiving dishes of sixteen feet or more in diameter and a tower of fifty feet or more in height.

(f) General Public or Quasi-Public. A Land Use Classification of General Public or Quasi-Public is intended for land to be developed for general public or quasi-public purposes, including, but are not limited to, public or private schools, libraries, any parks or playgrounds which are not Coral Canyon Residential Common Areas and fire stations.

(g) Cluster Residential. A Land Use Classification of Cluster Residential is intended for land to be developed for Single Family occupancy, other than detached, single family

residences, and may include those types of residential housing arrangements known as townhouses, clustered housing, duplexes, zero-lot line housing and similar arrangements and may also include common or shared parking facilities that may be separate from the Dwelling Units.

(h) Church. A Land Use Classification of Church is intended for land to be developed for churches and other places of worship.

A Tract Declaration may include more than one Land Use Classification. The specific permitted and prohibited uses in a particular Land Use Classification shall be determined in the Tract Declaration and shall be within the complete discretion of Declarant, notwithstanding the explanatory descriptions set forth in this Section 3.5. All Tract Declarations shall be subject to applicable zoning and building laws and ordinances. The Land Use Classifications established by a Tract Declaration shall not be changed except as specifically permitted by this Residential Declaration.

3.6 Subsidiary Associations. Tract Declarations may provide for the formation of a Subsidiary Association. If a Subsidiary Association is formed pursuant to a Tract Declaration, the articles of incorporation, bylaws and other governing documents for such Subsidiary Association shall not be effective unless such documents have been approved by the Board. The governing documents for a Subsidiary Association must specify that such Subsidiary Association and the rights of its members are subject to the provisions of this Residential Declaration, the Rules and the Design Guidelines.

3.7 Conveyance of Common Areas. Following recordation of a Tract Declaration with respect to a particular portion of the Covered Property, any Coral Canyon Residential Common Areas within such portion of the Covered Property shall be conveyed to the Master Residential Association and any Subsidiary Common Areas within such portion of the Covered Property shall be conveyed to the Subsidiary Association. From time to time, Declarant may convey easements, leaseholds, or other real property within the Covered Property to the Master Residential Association and upon such conveyance or dedication to the Master Residential Association, such property shall be deemed a part of the Coral Canyon Residential Common Areas accepted by the Master Residential Association and thereafter shall be maintained by the Master Residential Association at its expense for the benefit of all its Members.

#### ARTICLE 4

#### CORAL CANYON COMMON AREAS; EASEMENTS

4.1 Easements and Rights of Enjoyment. Every Owner shall have a nonexclusive easement for the use and enjoyment in and to the Coral Canyon Residential Common Areas, which nonexclusive easement shall be appurtenant to and shall pass with the title to every Lot and Parcel. All Residents, other than Owners, shall have a nonexclusive, nontransferable temporary license to use and enjoy the Coral Canyon Residential Common Areas so long as they remain Residents. The foregoing grant and rights are subject to the following limitations:

(a) The right of the Master Residential Association to charge reasonable Special Use Fees for the use of the Coral Canyon Residential Common Areas. Special Use Fees shall be set by the Board from time to time, in its absolute discretion. Special Use Fees shall be charged only for actual entry upon or utilization of those Coral Canyon Residential Common Areas selected by the Board to be subject to Special Use Fees and shall be intended to collect revenue from the actual users of such selected Coral Canyon Residential Common Areas so that all of the costs of operating such selected Coral Canyon Residential Common Areas are not borne by all of the owners through Annual Assessments, but rather are borne, at least in part, by the Owners and



Residents utilizing such selected Coral Canyon Residential Common Areas. Special Use Fees assessed against an Owner or Resident on such Owner's Lot or Parcel shall also become part of the Assessments to which such Owner and such Owner's Lot or Parcel is subject and shall be secured by the Assessment Lien.

(b) The right of the Master Residential Association to suspend the voting rights and right to use and enjoy the recreational portions of the Coral Canyon Residential Common Areas by any Owner or Resident (i) for any period during which any Assessment against such Owner's or Resident's Lot or Parcel remains delinquent; (ii) for a period not to exceed 60 days for any infraction of this Residential Declaration, a Tract Declaration, the Rules or the Design Guidelines; and (iii) for successive 60 day periods if any such action is not corrected during any preceding 60 day suspension period.

(c) The right of the Master Residential Association to regulate the use of the Coral Canyon Residential Common Areas through the Rules and to prohibit access to those Coral Canyon Residential Common Areas, such as landscaped areas, not intended for use by the Owners or Residents.

(d) The right of the Master Residential Association to change the use of Coral Canyon Residential Common Areas and to change the size, shape or location of the Coral Canyon Residential Common Areas as provided in Section 4.2.

**4.2 Procedure for Changes to Coral Canyon Residential Common Areas.** Upon (1) adoption of a resolution by the Board stating that in the Board's opinion the action proposed to be taken by the Board with respect to the Coral Canyon Residential Common Areas is in the best interests of the Members, and (2) the approval of such resolution by a majority of the votes of each class of Members who are voting at a meeting duly called for such purpose, the Board shall have the power and right to:

(a) Change the use of any of the Coral Canyon Residential Common Areas (and in connection therewith, construct, reconstruct, alter or change the buildings, structures and improvements thereon in any manner deemed necessary by the Board to accommodate the new use), provided such new use (i) shall be for the benefit of the Owners and Residents, and (ii) shall be consistent with any deed restrictions and zoning regulations restricting or limiting the use of the land;

(b) Dedicate or transfer all or any part of the Coral Canyon Residential Common Areas to any public authority or utility; and

(c) Change the size, shape or location of the Coral Canyon Residential Common Areas, to exchange the Coral Canyon Residential Common Areas for other property or interests which become Coral Canyon Residential Common Areas, and to abandon or otherwise transfer Coral Canyon Residential Common Areas.

Alternatively, the Board, upon satisfaction of the requirements of clause (1) above may, in lieu of calling a meeting, notify in writing all Owners of the proposed change of use and of their right to object thereto, and the proposed change shall be deemed approved by the Members (and a meeting of the Members shall not be necessary) unless, within 30 days after receipt of such notice, the proposed change is disapproved in writing by the Class B Member or more than 10% of the Class A Members eligible to vote.

4.3 Easements for Encroachments. Each Lot and Parcel, the Coral Canyon Residential Common Areas, and all other areas within the Covered Property shall be subject to an easement of not more than eighteen inches for encroachments of walls, ledges, roofs and other structures created by construction, settling and overhangs as originally designed and constructed by Declarant or other developer. If any such improvement on the Coral Canyon Residential Common Areas encroaches upon any Lot, Parcel or other area, or if any such improvement on any Lot, Parcel or other area encroaches upon any portion of the Coral Canyon Residential Common Areas, or if any such improvement on any Lot, Parcel or other area encroaches upon another Lot, Parcel or other area, a valid easement for said encroachments and for the maintenance thereof shall exist. If any structure on any Lot, Parcel, Common Area or other area is repaired, altered or reconstructed in accordance with the original plans and specifications, similar encroachments shall be permitted and a valid easement for said encroachments and for the maintenance thereof shall exist.

4.4 Right of Ingress and Egress. The Declarant, the Master Residential Association, the Board, and the Design Review Committee shall each have an easement upon, across, over and under the Lots, Parcels and all other areas in the Covered Property for the purpose of performing and exercising all of the Declarant's, the Master Residential Association's, the Board's, and the Design Review Committee's respective rights, duties and obligations under this Residential Declaration, including, in the case of the Master Residential Association, repairing, maintaining and replacing the Coral Canyon Residential Common Areas, the improvements thereon, and other areas maintained by the Master Residential Association.

4.5 Utility Easements. There is hereby created a blanket easement upon, across, over and under the Covered Property and each portion thereof for ingress to, egress from, and the installation, replacing, repairing and maintaining of, all utility and service lines and systems, including, but not limited to water, sewers, gas, telephones, electricity, television cable or communication lines and other systems as such utilities are installed in connection with the initial development of the Covered Property. Pursuant to this easement, a providing utility or service company may install and maintain facilities and equipment on the Covered Property and affix and maintain wires, circuits and conduits on, in and under the roofs and exterior walls of buildings on the Covered Property. Notwithstanding anything to the contrary contained in this Section 4.5, no sewers, electrical lines, water lines, or other utilities or service lines may be installed or relocated on any area in the Covered Property except as initially programmed and approved by Declarant, or, if installed after recordation of a Tract Declaration, as approved by the Owner of the portion of the Covered Property subject to the Tract Declaration and the Board.

4.6 Waiver of Use. No Owner shall be exempted from personal liability for Assessments, or the Owner's Lot or Parcel released from liens or charges arising under this Residential Declaration or any Tract Declaration, by waiver of any rights of use or enjoyment of the Coral Canyon Residential Common Areas.

## ARTICLE 5 USE RESTRICTIONS

5.1 General Covenants. Except as otherwise expressly provided in this Residential Declaration, the following covenants, conditions, restrictions, reservations, easements and rights shall apply to each Lot and Parcel and to all of the Owners and Residents thereof, regardless of the Land Use Classification of such Covered Property: The provisions of this Section 5.1 shall also apply to the Master Residential Association, as to the Coral Canyon Residential Common Areas, as if the Coral Canyon



Residential Common Areas were a Parcel and the Master Residential Association were the Owner thereof.

(a) Architectural Control. Without the prior written approval of the Design Review Committee (except as otherwise provided in Section 7.14(j) or elsewhere in this Residential Declaration) (i) no improvements (whether temporary or permanent), alterations, repairs, excavation, grading, lighting, landscaping or other work (including, without limitation, exterior painting) which in any way alters the exterior appearance of any Lot or Parcel or any improvements thereon from its natural or improved state existing on the date a Tract Declaration for such portion of the Covered Property is recorded shall be made or done; and (ii) no building, fence, exterior wall, residence or other structure shall be commenced, erected, maintained, improved, altered or made on any Lot or Parcel. All subsequent additions to or changes or alterations in any building, fence, wall or other structure, including exterior color scheme, and all changes in the grade, lighting or landscaping of any Lot or Parcel shall be subject to the prior written approval of the Design Review Committee. No changes or deviations in or from the plans and specifications once approved by the Design Review Committee shall be made without the prior written approval of the Design Review Committee. Once construction of an improvement has been commenced on a Lot or Parcel, the Owner thereof shall diligently pursue completion of such improvement in accordance with approved plans. Declarant shall be exempt from the requirements of this Section 5.1(a) and therefore all improvements, alterations, repairs, excavation, grading, lighting, landscaping or other work performed, constructed or installed by Declarant shall be deemed approved by the Design Review Committee.

(b) Animals. Except as otherwise expressly permitted in an applicable Tract Declaration, no animals, birds, fowl or livestock, other than a reasonable number of generally recognized house or yard pets, shall be maintained on any Lot or Parcel and then only if they are kept, bred or raised thereon solely as domestic pets and not for commercial purposes. All pets must be kept in a fenced yard or on a leash at all times. No animal, bird, fowl, or livestock shall be allowed to make an unreasonable amount of noise or to become a nuisance or an annoyance to other Owners. It shall be the responsibility of each Owner and Resident to remove immediately any droppings from such Owner's or Resident's pets. No structure for the care, housing or confinement of any animal, bird, fowl or livestock shall be maintained so as to be Visible From Neighboring Property. Upon the written request of any Owner or Resident, the Board shall conclusively determine, in its sole and absolute discretion, whether, for the purposes of this Section, a particular animal or bird is a generally recognized house or yard pet, whether such a pet is a problem or nuisance or whether the number of animals or birds on any such property is reasonable. Any decision rendered by the Board shall be enforceable in the same manner as other restrictions contained herein.

(c) Temporary Occupancy and Temporary Buildings. No trailer, incomplete building, tent, shack, garage or barn, and no temporary buildings or structures of any kind shall be used at any time for a residence, either temporary or permanent. Temporary buildings or structures may be used on any property for construction, repair or sales purposes, with the prior written approval of the Board and for the time period approved by the Board.

(d) Nuisances; Construction Activities. No weeds, dead trees or plants, rubbish or debris of any kind shall be placed or permitted to accumulate upon or adjacent to any Lot or Parcel, and no odors or loud noises shall be permitted to arise or emit therefrom, so as to render any such property or activity thereon, unsanitary, unsightly, offensive or detrimental to any other property in the vicinity thereof or to the occupants of such other property. No other nuisance

shall be permitted to exist or operate upon any Lot or Parcel. The Board shall have the exclusive right to determine the existence of any nuisance. Without limiting the generality of any of the foregoing provisions and except as otherwise permitted in this Residential Declaration, no exterior speakers, horns, whistles, firecrackers, bells or other sound devices shall be located, used or placed on any such property. Normal construction activities and parking in connection with the building of improvements in the Covered Property shall not be considered a nuisance or otherwise prohibited by this Residential Declaration, but Lots and Parcels shall be kept in a neat and tidy condition during construction periods, trash and debris shall not be permitted to accumulate, and supplies of brick, block, lumber and other building materials will be piled only in such areas as may be approved by the Board. Each Owner shall be responsible for and shall promptly perform all onsite and construction cleanup occasioned by such Owner's contractors or subcontractors. In addition, any construction equipment and building materials stored or kept on any Lot or Parcel during construction of improvements may be kept only in areas approved by the Board, which may also require screening of the storage areas. It is acknowledged that normal construction activities may be noisy and may require the use of exterior speakers.

(e) Landscaping: Walls and Fences. Each Owner shall comply with landscaping Design Guidelines, including but not limited to specific plant selections and the timing of landscape installation. Walls and fences shall be constructed and maintained on each Lot, as provided in the Design Guidelines.

(f) Diseases and Insects. No Owner shall permit any thing or condition to exist upon any Lot or Parcel which shall induce, breed or harbor diseases or insects.

(g) Repair of Buildings. No building or structure on any Lot or Parcel shall be permitted to fall into disrepair and each such building and structure shall at all times be kept in good condition and repair and adequately painted or otherwise finished. If any building or structure is damaged or destroyed, then, subject to Design Review Committee approval (or Declarant, in the case of a matter within the jurisdiction of Declarant pursuant to Section 7.14(j) or any other similar provision), such building or structure shall be promptly repaired, rebuilt or demolished. If an Owner fails to comply with this provision, the Board may give notice to the offending Owner and may then proceed to repair the building or improvement and charge the Owner therefor as permitted in Section 7.7(d).

(h) Antennas. The Design Review Committee may regulate, to the extent permitted under federal, state and local law, any antenna, aerial, satellite television dish or other device for the transmission or reception of television or radio signals or any other form of electromagnetic radiation proposed to be erected, used or maintained outdoors on any portion of the Project, whether attached to a Dwelling Unit or other structure, or otherwise. To the extent permitted by applicable law, the prior approval of the Design Review Committee shall be required for the installation, use or maintenance of any such device, which approval the Design Review Committee may condition upon the satisfaction of certain conditions including, but not limited to, the size, placement, height, means of installation and screening of such devices.

(i) Mineral Exploration. No Lot or Parcel shall be used in any manner to explore for or to remove any water, oil or other hydrocarbons, minerals of any kind, gravel, earth or any earth substance of any kind without the express approval of the Class B Member and the Board, excepting normal grading and construction activity in connection with otherwise permissible development.

(j) Trash Containers and Collection. No garbage or trash shall be placed or kept on any Lot or Parcel except in covered containers of a type, size and style which are approved by the Board and by city ordinance. Such containers shall be maintained and stored so as to not be Visible From Neighboring Property except to make the same available for collection. All rubbish, trash and garbage shall be removed from the Lots and Parcels and shall not be allowed to accumulate thereon. No outdoor incinerators shall be kept or maintained in the Covered Property. No on-site burning of trash or other debris is permitted on any Lot or Parcel.

(k) Clothes Drying Facilities. No outside clotheslines or other outside facilities for drying or airing clothes shall be placed or maintained on the Covered Property.

(l) Machines and Equipment. No machinery or equipment of any kind shall be placed, operated or maintained on any Lot or Parcel except (i) such machinery or equipment as is usual and customary in connection with the use, maintenance or construction (during the period of construction) of an approved building, appurtenant structures, or other improvements; (ii) that which Declarant, the Master Residential Association, or a Subsidiary Association may require for the operation and maintenance of the Covered Property; and (iii) that used or displayed in connection with any business permitted under a Tract Declaration.

(m) Signs. No signs whatsoever (including, but not limited to, commercial, political and similar signs) which are Visible From Neighboring Property shall be erected or maintained on any Lot or Parcel except:

(i) Signs required by legal proceedings.

(ii) Not more than two identification signs for individual detached residences, each with a face area of 72 square inches or less and not more than one identification sign with a face area of 72 square inches or less for each attached residence.

(iii) Such other signs (including but not limited to "for sale" and "for lease" signs, construction job identification signs, builders signs, directional signs and subdivision and apartment identification signs) which are in conformance with applicable governmental laws and regulations and which have been approved in writing by the Design Review Committee as to size, colors, design, message content and location.

(n) Restriction on Further Subdivision, Covered Property Restrictions and Rezoning. No Lot or Parcel shall be further subdivided or separated into smaller lots or parcels by any Owner, and no portion less than all of any such Lot or Parcel shall be conveyed or transferred by any Owner, without the prior written approval of the Board. This provision shall not apply to transfers of an undivided ownership interest in the whole of any Lot or Parcel. This provision shall not, in any way, limit Declarant from subdividing or separating into Lots or Parcels any property at any time owned by Declarant. Further, this provision shall not apply or in any way limit Declarant from conveying easements or from conveying or dedicating any property to a governmental entity or public utility. Unless otherwise approved by Declarant, no buildings or other permanent structures shall be constructed on any area in the Covered Property until a Tract Declaration has been recorded on such property. No subdivision plat or further covenants, conditions, restrictions or easements shall be recorded by any Owner or other person against any property in the Covered Property unless the provisions thereof have first been approved in writing by the Class B Member and the Board, and any plat or other covenants, conditions, restrictions or easements recorded without such approval being evidenced thereon shall be null and void. Once

a Parcel has been subdivided into Lots by a recorded plat, that Parcel may not be resubdivided into a different number of Lots without the approval of the Class B Member and the Board. No application for rezoning of any Lot or Parcel, and no applications for variances or use permits, shall be filed with any governmental authority unless the proposed use of the property has been approved by the Class B Member and the Board and the proposed use otherwise complies with this Residential Declaration, any applicable Tract Declaration and the general plan of development for the Covered Property.

(o) Utility Services. Except as may be otherwise required by applicable utility providers or applicable governmental ordinance, no lines, wires or other devices for the communication or transmission of electric current or power, including telephone, television and radio signals, shall be erected, placed or maintained anywhere in the Covered Property unless the same shall be contained in conduits or cables installed and maintained underground or concealed in, under or on buildings or other structures, except for:

(i) Boxes on the ground for electrical or communication connections, junctions, transformers and other apparatus customarily used in connection with such underground lines, wires and other devices, and

(ii) Such above ground electrical apparatus as maybe convenient or reasonably necessary on Parcels with a Land Use Classification of Utility.

Except as may be otherwise required by applicable utility providers or applicable governmental ordinance, all lines for the transmission of water and sewage shall also be installed and maintained underground or concealed in, on or under structures approved by the Board. The installation and location of all utility lines and equipment must be approved in advance by the Board. Temporary above-ground power or telephone structures and water lines incident to construction activities shall be permitted with the prior written approval of the Board.

(p) Overhead Encroachments. No tree, shrub or planting of any kind on any Lot or Parcel shall be allowed to overhang or otherwise to encroach upon any sidewalk, street, bike path, equestrian trail, pedestrian way, light poles, traffic signs, fire hydrants, the Golf Course or other area from ground level to a height of eight feet without the prior written approval of the Board.

(q) Trucks, Trailers, Campers and Boats. No motor vehicle classed by rating as exceeding 3/4 ton, mobile home, motor home, trailer, camper shell, detached camper, boat, jet ski, boat trailer, or other similar equipment or vehicle may be parked or stored on any Lot or Parcel or street so as to be Visible From Neighboring Property, the Common Areas or the streets; **provided, however,** this provision shall not apply to (i) pick-up style trucks one ton capacity or less with camper shells not exceeding seven feet in height measured from ground level and mini-motor homes not exceeding seven feet in height and eighteen feet in length which are parked as provided in Section 5.1(s) and are used on a regular and recurring basis for basic transportation; (ii) trucks, trailers and campers parked in a recreational vehicle storage area, **provided, however,** that all such parking areas have been approved by the Board; or (iii) temporary construction shelters or facilities maintained during, and used exclusively in connection with, the construction of any improvement approved by the Board.

(r) Motor Vehicles. No inoperable, unlicensed or unregistered vehicle shall be parked except inside a closed garage. No vehicle may occupy more than one driveway space nor may it project onto the sidewalk or street when parked. Double parking is prohibited. Owners

may not use, or allow their guests, invitees, lessees, tenants or family members to use, amenity or common area parking except when using that amenity or common area for its approved use. The parking or storing of motorcycles, golf carts or other vehicles on walks or patios is prohibited. No motor vehicle of any kind shall be constructed, reconstructed or repaired upon any Lot, Parcel, street or other area in the Covered Property, and no inoperable vehicle may be stored or parked so as to be Visible From Neighboring Property or to be visible from the Common Areas or streets; **provided, however**, that this provision shall not apply to (i) emergency vehicle repairs; (ii) the parking of motor vehicles in garages or other parking areas in the Covered Property designated or approved by the Board so long as such vehicles are in good operating condition and appearance, are not under repair and comply with the parking provisions set forth in Section 5.1(s); and (iii) the storage of motor vehicles in an area designated for such purposes on a Tract Declaration or in an area otherwise approved by the Board. The Board shall have the right and power to adopt and modify the rules and regulations governing the parking of motor vehicles on Lots, Parcels, and Common Area and implementing the provisions of this Section 5.1(r). In the event of any conflict or inconsistency between the provisions of this Section 5.1(r) and the rules and regulations adopted by the Board, the provisions of this Section 5.1(r) shall control.

(s) **Parking.** Vehicles of all Owners and Residents and of their employees, guests and invitees are to be kept in garages, driveways and other parking areas designated or approved by the Design Review Committee; **provided, however**, this Section shall not be construed to permit the parking or storing in the above described areas of any vehicle whose parking or storage in the Covered Property is otherwise prohibited herein. No motor vehicle of any type shall be parked in any landscape area: (a) in the front yard of any Lot; or (b) in any portion of a side yard of a Lot which is not fully enclosed by a solid wall. In no event will parking of motor vehicles be allowed on both sides of a Dwelling Unit. No detached trailers may be parked on the street or in front of the garage. Recreation vehicles may be parked with a maximum time allowance of a 24 hour duration to assist in loading and unloading of the unit. The Rules may permit temporary parking on streets or other Covered Property areas for public or private social events or other permitted activities, but no overnight parking on streets will be permitted except passenger cars and pick-ups as otherwise provided in the Rules or by specific action of the Board. No inoperable or long term "storage" parking of any vehicle type is allowed on the street or the driveway. The Board shall have the right to have any mobile home, travel trailer, tent trailer, trailer, camper shell, detached camper, recreational vehicle, boat, jet ski, boat trailer or similar equipment or vehicle or any automobile, truck, motorcycle, motorbike, or other motor vehicle which is parked, kept, maintained, constructed, reconstructed or repaired in violation of this Residential Declaration, any Tract Declaration or other recorded document, or the Rules towed away at the sole cost and expense of the owner of the vehicle or equipment. Any expense incurred by the Master Residential Association in connection with the towing of any vehicle or equipment shall be paid to the Master Residential Association upon demand by the owner of the vehicle or equipment. If the vehicle or equipment is owned by an Owner, any amounts payable to the Master Residential Association shall be secured by the Assessment Lien, and the Master Residential Association may enforce collection of said amounts in the same manner provided for in their Residential Declaration for the collection of Assessments.

(t) **Roofs.** No solar panel, air conditioning unit, evaporative cooler, or other apparatus, structure or object shall be placed on the roof of a Dwelling Unit without the prior written consent of the Design Review Committee. Any solar panel approved by the Design Review Committee for placement on a roof must be flush mounted and painted to match roof tile or body color of house as appropriate if Visible From Neighboring Property.

(u) Window Treatments and Screen Doors. Within 90 days of occupancy, each Owner of a Dwelling Unit shall install permanent draperies or suitable window treatments on all windows Visible From Neighboring Property. In no event shall windows be covered with paper, aluminum foil, bed sheets or any other materials or temporary coverings not specifically intended for such purpose. No interior or exterior reflective material, window bars or window covers shall be used until such items have been approved by the Design Review Committee. Screen doors, wrought iron doors, and window screens visible from Neighboring Property must also be approved by the Design Review Committee prior to installation, and must be painted with colors that satisfy the requirements of the Design Guidelines.

(v) Drainage. No Owner or Resident shall interfere with or obstruct the drainage pattern over such Owner's Lot or Parcel from or to any other Lot or Parcel as that pattern may be established or altered by Declarant or other developer. Drainage may not be directed to any adjacent property, other than the streets, and pool water drainage and backwash discharge must be completely contained on the particular Lot or Parcel.

(w) Garages. Each Dwelling Unit must have an attached garage with a capacity of not fewer than two standard size automobiles, except to the extent otherwise provided by Tract Declaration for Cluster Residential uses. No garage or portion of a garage shall be converted to residential or other uses, other than storage of vehicles in accordance with this Residential Declaration, unless: (i) any such conversion is approved in advance by the Design Review Committee; and (b) after such conversion the Dwelling Unit in question still has an attached garage with a capacity of not fewer than two standard size automobiles (except to the extent otherwise provided by Tract Declaration for Cluster Residential uses). Materials, equipment and other items stored or kept within a garage must be arranged, beginning not later than thirty days after an Owner or Resident takes occupancy, so as to allow for parking of at least two standard size automobiles in such garage, except to the extent otherwise provided by Tract Declaration for Cluster Residential uses. Garage doors must be able to close completely at all times without interference from vehicles or items parked or stored inside, except to the extent otherwise provided by Tract Declaration for Cluster Residential uses.

(x) Health, Safety and Welfare. If additional uses, activities and facilities are deemed by the Board to be a nuisance or to adversely affect the health, safety or welfare of Owners or Residents, the Board may make rules restricting or regulating their presence in the Covered Property.

(y) Governmental Compliance. In addition to complying with the terms of this Residential Declaration, each Owner and Resident shall comply with all applicable laws, rules, and regulations affecting such Owner's Lot or Parcel or the use thereof.

(z) Restrictions on Use of Lots. Lots may be used only for the construction and occupancy of Single Family Dwelling Units (which shall be detached units, in the case of Lots located within portions of the Covered Property with a Land Use Classification of Single Family Residential) and typical residential activities incidental thereto, such as the construction and use of private swimming pools, together with common recreational facilities or other common areas or amenities, if any. In addition, with respect to portions of the Covered Property with a Land Use Classification of either Residential Condominium or Cluster Residential, a management office may be maintained on such property for the purposes of leasing and managing the Dwelling Units and related improvements on such Covered Property. All Lots shall be used, improved and devoted exclusively to residential uses, and no occupation, business, profession,



trade or other non-residential use shall be conducted thereon, except that an Owner or Resident may conduct business activity in a Lot so long as (i) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the Dwelling Unit; (ii) the business activity does not generate any traffic to and from the Dwelling Unit and does not require any street or on-site parking; (iii) the business activity conforms to all applicable zoning requirements; (iv) the business activity does not involve door-to-door solicitation of other Owners and Residents; and (v) the business activity is consistent with the residential character of the Covered Property and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other Residents and Owners, as may be determined in the sole discretion of the Board. The terms "business", "occupation", "profession" and "trade", as used in this Section 5.1(z) shall be construed to have their ordinary, generally accepted meanings, and shall include, without limitation, any occupation, work or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (1) such activity is engaged in full or part-time; (2) such activity is intended to or does generate a profit; or (3) a license is required therefor. Notwithstanding the above, the leasing of a Dwelling Unit shall not be considered a trade or business as defined herein.

(aa) Obligation to Complete Construction. Once the Owner of a Lot unimproved with a single family residence commences construction of a residence on such Lot, such Owner shall thereafter continue construction in a professional manner until the residence is completed, a certificate of occupancy has been issued, and front yard landscaping installed, all such work to be completed within 18 months following commencement of construction. At no time shall construction stop for more than 14 consecutive days. If there is any delay in continuing construction once commenced, the Board may levy a fine of \$100 per day against the Owner until work resumes in a professional and customary manner.

(bb) Tenants. The entire Dwelling Unit and Lot may be leased to a Single Family tenant or lessee, from time to time by the Owner, subject to the provisions of this Residential Declaration, the Rules, any applicable Design Guidelines and the Tract Declaration.

(cc) Occupants. Lots may only be occupied by Owners and Residents.

## 5.2 Certain Exemptions.

(a) Declarant Exempt. Nothing contained in this Residential Declaration shall be construed to prevent the erection or maintenance by Declarant or by other developers or their duly authorized agents, of structures, improvements or signs necessary or convenient to the development or sale of property within the Covered Property if those structures, improvements or signs have been approved by Declarant, in its sole discretion.

(b) Model Homes. The provisions of this Residential Declaration and of Tract Declarations which prohibit non-residential use of Lots and Parcels and regulate parking of vehicles shall not prohibit the construction and maintenance of model homes and sales offices and parking areas incidental thereto by persons engaged in the construction or marketing of Dwelling Units in the Covered Property provided that the location and the opening and closing hours of such model homes are approved by the Design Review Committee, and provided that the construction, operation and maintenance of such model homes otherwise comply with all of the provisions of this Residential Declaration. Any homes constructed as model homes shall cease to be used as model homes at any time the Owner thereof is not actively engaged in the construction

and sale of Dwelling Units in the Covered Property or the Coral Canyon Property and no home shall be used as a model home for the sale of homes not located in the Covered Property or the Coral Canyon Property.

5.3 Variations. The Board may, at its option and in extenuating circumstances, grant variances from the restrictions set forth in this Article if the Board determines, in its sole discretion, (a) either (i) that a restriction would create an unreasonable hardship or burden on an Owner of Resident or (ii) that a change of circumstances since the recordation of this Residential Declaration has rendered such restriction obsolete; and (b) that the activity permitted under the variance will not have any substantial adverse effect on any other Owner of Resident and is consistent with the high quality of life intended for the Owners and Residents. The burden of proof shall be on the Owner of Resident seeking the variance. Notwithstanding the foregoing, with respect to any matter that specifically requires the consent of Declarant, no variance shall be effective unless Declarant shall have also approved the variance, in Declarant's sole discretion.

## ARTICLE 6 GOLF COURSE PROVISIONS

6.1 Disclaimers Regarding Golf Courses. All persons, including all Owners and Residents, are hereby advised that no representations or warranties have been or are made by Declarant or any other person with regard to the continuing ownership, operation or configuration of, or right to use, any Golf Course, whether or not depicted on the Master Development Plan or any other land use plan, sales brochure or other marketing display or plan. Golf Courses and Golf Course Land are private property and are not Common Areas and are not subject to this Residential Declaration, and the owners of the Golf Courses and Golf Course Land have the sole and exclusive right to determine any and all access and play rights with respect to the Golf Courses and Golf Course Land. Owners and Residents entering on the Golf Courses or Golf Course Land without authorization of the owners of the Golf Courses and Golf Course Lands will be deemed trespassers. No Master Residential Association membership rights, responsibilities or assessments shall be attributed or charged to any Golf Course or Golf Course Land. Neither Membership in the Master Residential Association nor ownership or occupancy of a Lot or Parcel shall confer any ownership in or right to use a Golf Course or Golf Course Land. Further, the ownership, operation or configuration of, or rights to use, any Golf Course may change at any time and from time to time for reasons including, but not limited to: (a) the purchase or assumption of operation of any Golf Course by an independent person; (b) the conversion of any Golf Course's membership structure to an equity club or similar arrangement whereby the members of a Golf Course or an entity owned or controlled thereby become the owner(s) and/or operator(s) of a Golf Course; (c) the conveyance, pursuant to contract, option or otherwise, of a Golf Course to one or more affiliates, shareholders, employees or independent contractors of Declarant; or (d) the conveyance of any Golf Course to the Master Residential Association or to one or more Subsidiary Associations. As to any of the foregoing or any other alternative, no consent of the Master Residential Association, any Subsidiary Association or any Owner shall be required to effectuate such transfer (except for the consent of the Master Residential Association in the event of a transfer to the Master Residential Association or of the applicable Subsidiary Association in the event of a transfer to such Subsidiary Association).

6.2 Rights of Access and Parking. Each such Golf Course and its members (regardless of whether such members are Owners or Residents), employees, agents, contractors, designers, invitees, and guests shall at all times have a right and nonexclusive easement of access and use over all roadways located within the Covered Property as reasonably necessary to travel to and from any entrance within the Covered Property to and from a Golf Course and, further, over those portions of the Covered Property



(whether Common Area or otherwise) reasonably necessary to the use, operation, maintenance, repair, and replacement of such Golf Course and its facilities. Without limiting the generality of the foregoing, members and guests (including members of the general public) shall have the right to park their vehicles on the roadways within the Covered Property at reasonable times before, during and after golf tournaments and other functions held at such Golf Course. The rights granted pursuant to this Section 6.2 are subject to such reasonable Rules as the Board may promulgate from time to time.

6.3 Limitations on Amendments. In recognition of the fact that the provisions of this Article are for the benefit of any Golf Course, no amendment to this Article and no amendment in derogation of this Article to any other provisions of this Residential Declaration may be made without the written approval thereof by the owner(s) of any Golf Course. The foregoing shall not apply, however, to amendments made by Declarant.

6.4 Golf Cart Path Easement. There may be golf cart path easements designated as such on one or more plats of the Covered Property, or portions thereof, or in one or more Tract Declarations, which shall be used for golf cart paths, pedestrian walkways, maintenance and vehicle access, and unhindered access between said paths and any Golf Course. Nothing shall be placed or maintained in any golf cart path easement which shall interfere with utilization thereof as a playable part of a Golf Course. Prior to any modifications or improvements within such an easement, permission must be obtained in writing from the Golf Course owner or operator.

6.5 Golf Balls, Disturbances and Nuisances. Each Owner and Resident understands and agrees that such Owner's or Resident's Lot or Parcel may be adjacent to or near one or more Golf Courses and related facilities and that Golf Course related activities, including, without limitation, regular course play and tournaments, may be held at the Golf Courses. Each Owner and Resident acknowledges that the location of such Owner's or Resident's Lot or Parcel within the Covered Property may result in nuisances or hazards to persons and property on such Lot or Parcel as a result of normal Golf Course operations and Golf Course-related activities, including, without limitation, the following:

- (a) Maintenance activities on any golf course begin early in the morning (as early as 3:30 am) and extend late into the evening and are performed on a daily basis;
- (b) During certain periods of the year, golf courses are heavily fertilized;
- (c) The maintenance of golf courses may require the use of chemicals and pesticides;
- (d) Golf courses may be watered with reclaimed water with other sources as backup supplies; and
- (e) Golf balls are not susceptible of being easily controlled and accordingly may enter an Owner's airspace, and strike an Owner, the Owner's guests, yard, walls, roof, windows, landscaping and personal property causing personal injury and property damage.

6.6 Release and Indemnification. Each Owner and Resident covenants for itself, its successors and assigns that it shall assume all risks associated with such location, including, but not limited to, the risk of property damage, personal injury, or other loss arising from stray golf balls or actions incidental to such Golf Course-related activities and releases and shall indemnify and hold harmless the Master Residential Association, each Subsidiary Association, Declarant, SITLA, the owners and operators of the Golf Course, any person using the Golf Course, and any other developers from any liability, claims, or expenses, including attorneys' fees, arising from such property damage, personal

injury, or other loss. Each Owner further covenants that Declarant and the owner of any Golf Course shall have the right, in the nature of an easement, to subject all or any portion of the Covered Property to nuisances incidental to the maintenance, operation, or use of Golf Course(s), and to the carrying out of Golf Course-related activities. Notwithstanding the above, any Owner engaging in any Golf Course-related activities shall respect neighboring properties in scheduling and holding such events so as not unreasonably to disturb Owners and Occupants of the neighboring property.

## ARTICLE 7

### THE MASTER ASSOCIATION AND THE DESIGN REVIEW COMMITTEE

7.1' Formation of Master Residential Association. The Master Residential Association shall be a nonprofit Utah corporation. Upon incorporation, the Master Residential Association shall be charged with the duties and invested with the powers prescribed by law and set forth in the Articles, Bylaws and this Residential Declaration. Neither the Articles nor Bylaws shall, for any reason, be amended or otherwise changed or interpreted so as to be inconsistent with this Residential Declaration.

7.2 Board of Directors and Officers. The affairs of the Master Residential Association shall be conducted by the Board and such officers as the Board may elect or appoint in accordance with the Articles and the Bylaws. The Board may also appoint various committees and appoint a manager who shall, subject to the direction of the Board, be responsible for the day-to-day operation of the Master Residential Association. The Board shall determine the compensation to be paid to the manager and any employees of the Master Residential Association. The initial Board and each Board thereafter for so long as there is a Class B Member shall consist of three Members or other persons, and such Board shall be appointed by the Class B Member without any other vote, consent or approval whatsoever. Commencing with the first annual meeting of the Members when there is no longer a Class B Member, the Board shall consist of, and the Members shall elect, five directors, all of whom must be Members or an individual designated by a corporate, partnership, or other non-individual Member. The foregoing reference to five directors shall be subject to increase in the number of directors as provided in the Bylaws. The initial terms for the elected directors shall be one director for a one-year term, two directors for a two-year term, and two directors for a three-year term, thus establishing a staggered Board. In succeeding years, all directors shall be elected for a three year term.

7.3 Master Residential Association's Rights and Powers As Set Forth the Residential Declaration, the Articles and Bylaws. In addition to the rights and powers of the Master Residential Association set forth in this Residential Declaration, the Master Residential Association shall have such rights and powers as are set forth in its Articles and Bylaws, which shall include all rights and powers as may be reasonably necessary in order to effect the purposes of the Master Residential Association as set forth in this Residential Declaration. After incorporation of the Master Residential Association, a copy of the Articles and Bylaws of the Master Residential Association shall be available for inspection by Members, prospective purchasers, mortgagees and other persons or entities with an interest in the Covered Property at the office of the Master Residential Association during reasonable business hours.

7.4 Contracts with Others for Performance of Master Residential Association's Duties. Subject to the restrictions and limitations contained in this Residential Declaration, the Master Residential Association may enter into contracts and transactions with others, including Declarant and its affiliated companies, and such contracts or transactions shall not be invalidated or in any way affected by the fact that one or more directors or officers of the Master Residential Association or members of any committee, including the Design Review Committee, are employed by or otherwise connected with Declarant or its affiliates, provided that the fact of such interest shall be disclosed or known to the other directors acting

upon such contract or transaction, and provided further that the transaction or contract is fair and reasonable. Any such director, officer or committee member may be counted in determining the existence of a quorum at any meeting of the Board or committee of which he is a member which shall authorize any contract or transaction described above or grant or deny any approval sought by Declarant, its affiliated companies or any competitor thereof and may vote thereat to authorize any such contract, transaction or approval with like force and effect as if he were not so interested. Notwithstanding anything to the contrary herein, during the period when Declarant is the Class B Member, any professional management contract entered into by the Master Residential Association must be terminable with or without cause, upon no more than 90 days written notice and without payment of any penalty.

7.5 Association Funds.

(a) Purposes for Which Master Residential Association's Funds May Be Used. The Master Residential Association shall apply all funds and property collected and received by it (including the Annual and Special Assessments, Reserve Contributions, fees, loan proceeds, surplus funds and all funds and property received by it from any other source) for the purposes and uses authorized by this Residential Declaration or otherwise for the common good and benefit of the Covered Property and the Owners and Residents. Subject to this Residential Declaration and the Articles and Bylaws, the Master Residential Association may expend its funds in any manner permitted under the laws of the State of Utah.

(b) Borrowing Power. The Master Residential Association may borrow money in such amounts, at such rates, upon such terms and security, and for such periods of time as is necessary or appropriate; *provided, however*, no loan in an amount in excess of \$10,000 shall be contracted until approved by at least two-thirds of the votes of each class of Members who are voting at a meeting duly called for such purpose.

(c) Master Residential Association's Rights in Spending Funds From Year to Year. The Master Residential Association shall not be obligated to spend in any year all the sums received by it in such year (whether by way of Annual Assessments, Special Assessments, fees or otherwise), and may carry forward as surplus any balances remaining. The Master Residential Association shall not be obligated to reduce the amount of an Assessment in the succeeding year if a surplus exists from a prior year, and the Master Residential Association may carry forward from year to year such surplus as the Board in its discretion may determine to be desirable for the greater financial security of the Master Residential Association and the accomplishment of its purposes.

7.6 Eminent Domain. The term "taking" as used in this Section means condemnation by eminent domain or sale under threat of condemnation. In the event of a threatened taking of all or any portion of the Coral Canyon Residential Common Areas, the Owners hereby appoint the Board and such persons as the Board may delegate to represent all of the Owners in connection with the taking. The Board shall act in its sole discretion with respect to any awards made or to be made in connection with the taking and shall be entitled to make a voluntary sale to the condemnor in lieu of engaging in a condemnation action. Any awards received on account of the taking shall be paid to the Master Residential Association. In the event of a total or partial taking, the Board may, in its sole discretion, retain any award in the general funds of the Master Residential Association or distribute prorata all or a portion thereof to the Owners and all holders of liens and encumbrances, as their interests may appear of record, at a uniform rate per Membership.

7.7

Maintenance

(a) Maintenance by the Master Residential Association.

(i) The Master Residential Association, or its duly delegated representative, shall maintain and otherwise manage all Coral Canyon Residential Common Areas and the improvements thereon; *provided, however*, the Master Residential Association shall not be responsible for providing or maintaining the landscaping or structures on any Coral Canyon Residential Common Areas which are part of Lots or Parcels unless (A) such landscaping or structures are available for use by all Owners and Residents or are within easements intended for the general benefit of the Covered Property and (B) the Master Residential Association assumes in writing the responsibility as set forth in a recorded instrument as hereinafter provided. The Master Residential Association shall maintain any landscaping and other improvements which are not located on Lots or Parcels but are within the boundaries of the Covered Property or which are within the Coral Canyon Property and which landscaping or other improvements are identified on a recorded instrument as Coral Canyon Residential Common Areas intended for the general benefit of the Owners and Residents, except the Master Residential Association shall not be required to maintain (but may elect to maintain) areas which (1) an improvement district, municipality, or other governmental entity is or could be maintaining, (2) a Subsidiary Association is required under a Tract Declaration to maintain, (3) are to be maintained by the Owners of a Lot or Parcel pursuant to **Section 7.7(b)**, or (4) are areas the maintenance of which would, in the sole and absolute discretion of the Board, benefit the Master Residential Association. Specific areas to be maintained by the Master Residential Association may be identified on recorded subdivision plats approved by Declarant, in recorded Tract Declarations, and/or in deeds from Declarant to the Master Residential Association or to a transferee of a Lot or Parcel, but the failure to so identify such areas shall not affect the Master Residential Association's rights or responsibilities with respect to Coral Canyon Residential Common Areas or the Master Residential Association's rights with respect to other areas intended for the general benefit of the Covered Property. Notwithstanding anything to the contrary herein, the Board shall have discretion to enter into an agreement or agreements with governmental entities to permit the Master Residential Association to upgrade and/or maintain landscaping on property owned by such entities, whether or not such property is within the Covered Property or the Coral Canyon Property, if the Board determines such an agreement or agreements benefit(s) the Master Residential Association.

(ii) The Board shall use a reasonably high standard of care in providing for the repair, management and maintenance of the Coral Canyon Residential Common Areas and other properties maintained by the Master Residential Association, but the Board shall be the sole judge as to the appropriate maintenance of all such areas. The Coral Canyon Residential Common Areas, including, but not limited to, playground or other play areas or equipment finished or maintained by the Master Residential Association shall be used at the risk of the user; and Declarant and the Master Residential Association shall not be liable to any person or entity for any claim, damage, or injury occurring thereon or related to the use thereof.

(iii) If any subdivision plat, Tract Declaration, deed restriction or this Residential Declaration permits the Board to determine whether or not Owners of certain

Lots or Parcels will be responsible for maintenance of certain Coral Canyon Residential Common Areas or public right-of-way areas; the Board shall have the sole discretion to determine whether or not it would be in the best interest of the Owners and Residents of the Covered Property or the Master Residential Association or for an individual Owner or a Subsidiary Association to be responsible for such maintenance, considering cost, uniformity of appearance, location and other factors deemed relevant by the Board. The Board may cause the Master Residential Association to contract with others for the performance of the maintenance and other obligations of the Master Residential Association under this Section 7.7 and, in order to promote uniformity and harmony of appearance, the Board may also cause the Master Residential Association to contract to provide maintenance services to Owners of Lots and Parcels in exchange for the payment of such fees as the Master Residential Association and Owner may agree upon.

(b) Maintenance by Owners. Each Owner shall be responsible for the proper maintenance of all landscaping in the following locations (i) such Owner's Lot or Parcel (including set back areas and Common Areas located thereon); (ii) public right-of-way areas between sidewalks (or bike paths) and the street curb on the front or side of such Owner's Lot or Parcel; (iii) public areas between a sidewalk and the Lot or Parcel boundary; (iv) portions of Common Area adjacent to the Owner's Lot or Parcel and which lie on the Lot's or Parcel's side of a wall erected on the Common Area; and (v) other public or easement areas adjacent to such Owner's Lot or Parcel. However, if the Master Residential Association, a Subsidiary Association, a public utility or a governmental authority has agreed to be responsible for the maintenance of any of the above areas, then the Owner shall be responsible for such maintenance in such areas only for so long as such other entities are not performing such maintenance. As used herein, maintenance shall include but not be limited to keeping the areas neatly trimmed, cultivated and free of trash, weeds and unsightly material. Each Owner shall also maintain in good condition and repair all paved and concrete areas, including driveways, roadways, sidewalks and parking areas, located on such Owner's Lot or Parcel.

(c) Assessment of Certain Maintenance Costs. If the need for maintenance or repair of Coral Canyon Residential Common Areas, structures and other property maintained by the Master Residential Association is caused through the intentional or negligent act of any Owner, or that Owner's family, guests or tenants or any Resident on such Owner's Lot or Parcel, the cost of such maintenance or repairs shall be added to and become a part of the Assessment to which such Owner and the Owner's Lot or Parcel is subject and shall be secured by the Assessment Lien. Any charges or fees to be paid by the Owner of a Lot or Parcel pursuant to Section 7.7(a)(iii) in connection with a contract entered into by the Master Residential Association with an Owner for the performance of an Owner's maintenance responsibilities shall also become a part of such Assessment and shall be secured by the Assessment Lien.

(d) Improper Maintenance and Use of Lots and Parcels. If any portion of any Lot or Parcel is so maintained as to present a nuisance, or substantially detract from the appearance or quality of the surrounding Lots and Parcels or other areas of the Covered Property which are substantially affected thereby or related thereto, or if any portion of a Lot or Parcel is being used in a manner which violates this Residential Declaration or any applicable Tract Declaration, or if the Owner of any Lot or Parcel is failing to perform any of its obligations under this Residential Declaration, any Tract Declaration, the Rules or Design Guidelines, the Board may, by resolution, make a finding to such effect, specifying the particular condition or conditions which exist, and pursuant thereto give notice thereof to the offending Owner that unless corrective action is taken within 14 days, the Board may cause such action to be taken at said Owner's cost. If at the

expiration of said 14-day period, the requisite corrective action has not been taken, the Board shall be authorized and empowered to cause such action to be taken and the cost thereof shall be added to and become a part of the Assessment to which the offending Owner and the Owner's Lot or Parcel is subject and shall be secured by the Assessment Lien.

7.8 Insurance.

(a) Authority to Purchase. The Master Residential Association shall maintain insurance against liability incurred as a result of death or injury to persons or damage to property on the Coral Canyon Residential Common Areas or upon other areas maintained by the Master Residential Association, or as a result of Master Residential Association activities, in a total amount of not less than \$1,000,000. If reasonably available, the Master Residential Association shall obtain officers and directors liability insurance in an amount deemed prudent by the Board. In addition, the Master Residential Association may carry any other insurance coverage which the Board in its discretion deems necessary or desirable.

(b) Individual Responsibility. Unless otherwise provided in a recorded Tract Declaration or other declaration, it shall be the responsibility of each Owner and Resident to provide for such Owner's or Resident's own insurance with respect to (i) such Owner's or Resident's property interests within the Covered Property, including, but not limited to, such Owner's or Resident's additions and improvements thereon, furnishings and personal property therein, (ii) such Owner's or Resident's personal liability, and (iii) such other risks with respect to which such person desires insurance. No person shall maintain any insurance which would limit or reduce in any manner the insurance proceeds payable under the casualty insurance maintained by the Master Residential Association in the event of damage to the improvements or fixtures on the Coral Canyon Residential Common Areas. Neither the Master Residential Association nor any Board member nor Declarant shall be liable to any person or mortgagee if any risks or hazards are not covered by the insurance obtained by the Master Residential Association or if the amount of insurance is not adequate.

(c) Insurance Claims. The Master Residential Association is hereby irrevocably appointed and authorized by the Owners to adjust all claims arising under insurance policies purchased by the Master Residential Association and to execute and deliver releases upon the payment of claims, and to do all other acts reasonably necessary to accomplish any of the foregoing. The Board has full and complete power to act for the Master Residential Association in this regard and may, at its discretion, appoint an authorized representative or committee, or enter into an insurance trust agreement wherein the trustee shall have authority, to negotiate losses under any policy purchased by the Master Residential Association. All proceeds from insurance acquired by the Master Residential Association shall be payable to the Master Residential Association. Any proceeds resulting from damage to the Coral Canyon Residential Common Areas shall be used to repair the damage, unless otherwise approved by a majority of the votes of each class of Members who are voting at a meeting called for such purpose. Any excess proceeds may be retained by the Master Residential Association as reserves or to reduce future Assessments or, if distributed to Members, such proceeds shall be distributed to Members and their mortgagees as their interests may appear at a uniform rate per Membership.

7.9 Reserve Funds. From the Annual Assessments and Reserve Contributions received by the Master Residential Association, the Board shall establish such reserve funds in such amounts as the Board deems reasonably prudent, for the maintenance, repair and replacement of the Coral Canyon Residential Common Areas and for other Master Residential Association purposes.



7.10 Purchase of Effluent. The Master Residential Association may purchase and use on Coral Canyon Residential Common Areas sewage effluent or untreated irrigation water for use on lawns and landscaping.

7.11 Coral Canyon Community Master Residential Association Rules. The Board may, from time to time and subject to the provisions of this Residential Declaration, adopt, amend and repeal rules and regulations, which may be known as Coral Canyon Community Master Residential Association Rules and Regulations. The Rules may restrict and govern the use of the Coral Canyon Residential Common Areas by any Member or Resident, by the family of such Member, or by any invitee, licensee or tenant of such Member, and such Rules may also deal with and regulate all other aspects of the Master Residential Association's rights, activities, and duties, *provided, however*, that the Rules shall not discriminate among Members and shall not be inconsistent with this Residential Declaration, the Articles or the Bylaws. Upon adoption, the Rules shall have the same force and effect as if they were set forth in and were a part of this Residential Declaration. Copies of the Rules shall be available for inspection at the office of the Master Residential Association during reasonable business hours.

7.12 Personal Liability. No Board member, committee member (including but not limited to the Design Review Committee), officer or employee of the Master Residential Association shall be personally liable to any Member or to any other person or entity, including the Master Residential Association, for any damage, loss or prejudice suffered or claimed on account of any act, omission, error or negligence; *provided, however*, the limitations set forth in this Section 7.12 shall not apply to any person who has failed to act in good faith or has engaged in intentional or willful misconduct. The Master Residential Association shall indemnify its committee members, directors and officers when acting on behalf of the Master Residential Association, to the full extent permitted by law.

7.13 Delinquency or Violation by Board or Committee Member. Notwithstanding any other provision of this Residential Declaration or of the Articles, the Bylaws or the Rules, but subject to applicable law, a member of the Board or of any committee of the Board or of the Design Review Committee shall not be entitled to cast any vote at a meeting of the Board, committee or Design Review Committee, as applicable, or otherwise participate in any such meeting or other action of the Board, committee or Design Review Committee during any period when: (a) such member is delinquent in payment of any Assessments or other amounts owed by such member to the Master Residential Association; or (b) such member, such member's Lot or Parcel, or any Resident, tenant or occupant of such member's Lot or Parcel, or any other person for whom such member is legally responsible is in breach or violation of this Residential Declaration, the Articles, the Bylaws, the Rules or the Design Guidelines and such breach or violation has not been cured or corrected after reasonable written notice. This Section shall not apply to any member of the Board, of any committee, or of the Design Review Committee who was appointed or designated for appointment by Declarant. The provisions of this Section are in addition to, and not in lieu of or in substitution for any other rights or remedies the Master Residential Association may have with respect to such delinquency or such breach or violation.

7.14 Design Review Committee.

(a) Establishment. A Design Review Committee shall be established and shall perform the functions set forth for the Design Review Committee in this Residential Declaration. The Design Review Committee shall adopt rules, regulations and guidelines for the performance of its duties, including procedures for the preparation, submission and determination of the application for any approvals required by this Residential Declaration or any Tract Declaration. The Design Review Committee shall consist of three regular members and not less than one alternate member. All members and alternates of the Design Review Committee shall be

appointed, removed and replaced from time to time by Declarant until the earlier to occur (i) the date which is 15 years following recordation of this Residential Declaration or (ii) such time as Declarant has relinquished, in writing, its rights to make such appointments, as described below. Members and alternates appointed from time to time by Declarant shall serve until the first annual meeting of Members following the date that Declarant no longer has the right to appoint such members and alternates. Thereafter the members of the Design Review Committee shall be elected by a majority vote of the Members who are voting at a meeting duly called for such purpose. The initial terms of the regular members elected by the Memberships shall be one member for a one year term, one member for a two year term, and one member for a three year term, thus establishing a staggered Design Review Committee. In succeeding years, all regular members shall be elected for a three year term. Alternate members shall be elected for a three year term. Design Review Committee elections shall occur at the same time as the annual elections of the Board. In the event of a temporary or permanent vacancy on the Design Review Committee, the alternate member shall serve as a replacement, and shall thereupon, for the period of such service, be considered a regular member, until the next election or until the regular member is again available, except that if there are more than one alternate members, the Design Review Committee shall designate which alternate member shall serve as the replacement. Members of the Design Review Committee need not be architects, Owners or Residents and need not possess any special qualification of any type. Declarant in its sole discretion may voluntarily relinquish (either temporarily or permanently) its right to appoint all or some of the members of the Design Review Committee by recording a written instrument executed by Declarant alone. Members of the Design Review Committee shall not be entitled to compensation for their services, unless otherwise approved by the Board.

(b) Design Review Approval; Meetings. Any application for an approval by the Design Review Committee shall be deemed approved if at least two members of the Design Review Committee sign either the application form or the applicable design plans or other document submitted for approval. Upon receiving an application for approval, the Design Review Committee shall note on the application the date it was received, and shall thereafter note thereon the date the application is approved, denied or returned to the applicant for further action. The Design Review Committee may, but is not required to, meet to review and consider any such application, as well as to conduct any other business. The Design Review Committee shall keep a record of the minutes of its meetings. A quorum at any such meeting shall be a majority of the regular members of the Committee, and the concurrence of a majority of the regular members of the Committee shall constitute the decision of that Committee. Notwithstanding any of the foregoing, any action required or permitted to be taken at any Design Review Committee meeting may be taken without a meeting, without prior notice, and without a vote, if a consent in writing, setting forth the action so taken, shall be signed by a majority of the regular members of that Committee's members.

(c) Right to Appeal. Except as provided in this Residential Declaration, any Owner aggrieved by a decision of the Design Review Committee may appeal the decision to the Board in accordance with procedures to be established in the Design Guidelines and/or the Rules. If a decision of the Design Review Committee is overruled by the Board on any issue or question, the prior decision of the Design Review Committee shall be deemed modified to the extent specified by the Board. Notwithstanding the foregoing, for so long as Declarant retains control over the Design Review Committee as provided in Section 7.14(a), no Owner shall have the right to appeal any decision of the Design Review Committee to the Board and the Design Review Committee's decision shall be final.



(d) Design Guidelines. From time to time and subject to the provisions of this Residential Declaration, the Design Review Committee shall have the right to adopt, amend and repeal Design Guidelines; *provided, however*, that such rules and guidelines shall be fair and reasonable and shall be consistent with the provisions of this Residential Declaration, the Articles and Bylaws. The Design Review Committee is specifically responsible for the administration and enforcement of the Design Guidelines and all other duties and obligations delegated to that Committee by the Residential Declaration, Articles, Bylaws and the Rules, or by the Master Residential Association. Copies of the Rules and all Design Guidelines as adopted or amended shall be available for inspection at the office of the Master Residential Association during reasonable business hours.

(e) Administrative Support. Administrative support as required by the Design Review Committee shall be provided by the Board.

(f) Discretion of Committee. The Design Review Committee shall be under no duty or obligation to pass upon, approve or disapprove any structural stability matter or matters pertaining to the stability of footings or foundations or matters pertaining to geological conditions involved in any foundation or footings and may indicate on any plans or specifications or drawings or other materials or in any certificate that the Design Review Committee has not passed upon, approved or disapproved any such referred to matters. All actions of the Design Review Committee authorized under this Residential Declaration, including without limitation the approval or disapproval of plans, specifications, drawings, plot plans, grading plans and height, as well as other matters in which the Design Review Committee is authorized hereunder to act, shall be in the sole and complete discretion of the Design Review Committee. Neither the Design Review Committee nor any member thereof shall be liable to any Owner, or to any other party, for any damage, loss or prejudice suffered or claimed on account of:

- (i) The approval or disapproval of any plans, drawings or specifications, whether or not defective;
- (ii) The construction or performance of any work, whether or not pursuant to approved plans, drawings and specifications;
- (iii) The development of any property within the Covered Property;
- (iv) The execution of any estoppel certificate, whether or not the facts therein are correct; or
- (v) The enforcement of this Residential Declaration and the Design Guidelines;

so long as the member acted in good faith and did not engage in willful or intentional misconduct. The approval by the Design Review Committee of any plans, specifications or other matter shall not be deemed to constitute a waiver of any right to withhold approval of any similar plans, specifications or other matter subsequently submitted for approval.

(g) Response Within 45 Days. Failure by the Design Review Committee to approve or disapprove a request within 45 days after such request is filed with the Committee (or within any shorter period of time set forth in the Design Guidelines) shall waive the approval requirement. Notice of disapproval shall be written and it shall set forth the reason or reasons for

the disapproval. Any other provision of this Residential Declaration to the contrary notwithstanding, no request shall be deemed filed with the Design Review Committee until it is actually received by the Design Review Committee, and all submissions to the Design Review Committee shall be made by certified mail or personal delivery.

(h) Committee's Certificate. Any approval of any plans and specifications or other matter by the Design Review Committee given or made pursuant to the provisions of this Residential Declaration which is evidenced by a certificate signed by at least a majority of the members of the Design Review Committee shall be irrevocable and not subject to change by the Design Review Committee. Any such certificate may be conclusively relied upon by all parties including but not limited to any Owner, tenant or purchaser of any Lot or Parcel, or of any interest therein; by any lender taking any Lot or Parcel as security, and by any title insurance company. Any such certificate may be recorded by the Design Review Committee in the office of the Washington County Recorder.

(i) Fee. The Board may establish a reasonable processing fee to defer the costs of the Design Review Committee in considering any requests for approvals submitted to it, which fee shall be paid at the time the request for approval is submitted.

(j) Declarant's Jurisdiction with respect to Parcels. Declarant shall, so long as it owns a single Parcel or Lot, have the right without a vote and without the consent of any other person or entity, to possess and exercise all of the rights and powers of the Design Review Committee and the Board with respect to all Parcels and all buildings, fences, walls, pools, roadways, driveways, and other structures, improvements and landscaping thereon (including, but not limited to, all exterior additions to or changes or alterations in any such structure or improvement). All decisions made by Declarant in its exercise of the rights and powers conferred upon it by this Section 7.14(j) shall be final and binding and shall not be subject to appeal to, or review by, the Design Review Committee or the Board. Declarant, on a Parcel basis, may waive this right if desired, in writing and with recordation at the office of the Washington County recorder. Once Declarant no longer has the rights granted in this Section 7.14(j) with respect to a particular Parcel, the Parcel shall be subject to the jurisdiction of the Board and the Design Review Committee, as otherwise provided in this Residential Declaration.

7.15 Right of Entry and Inspection. During reasonable hours and upon reasonable notice to the Owner or other occupant of a Lot or Parcel, Declarant, any member of the Design Review Committee, any member of the Board, or any authorized representative of any of them, shall have the right to enter upon and inspect any Lot or Parcel, and the improvements constructed or being constructed thereon (except for the interior portions of any completed and occupied Dwelling Unit), to determine compliance with this Residential Declaration, the Design Guidelines, the Rules or any approval stipulations issued by the Design Review Committee or to perform repairs and maintenance as provided in Section 7.7(d), and such persons shall not be deemed guilty of trespass by reason of such entry. In addition, the Master Residential Association shall have an easement and right of entry upon any Lot or Parcel at any time or times without notice in order to perform emergency repairs. Failure to respond to Design Review Committee or Board demands to comply may be deemed an emergency.

**ARTICLE 8  
MEMBERSHIPS AND VOTING**

8.1 Members, Memberships. Every Owner of a Lot or Parcel which is subject to assessment shall be a Member of the Master Residential Association. Each such Owner shall have the following number of Memberships:

- (a) One Membership for each Lot owned by the Member.
- (b) That number of Memberships equal to the number of acres in each Parcel owned by the Member, except any Parcels which have a Land Use Classification of Residential Condominium, Single Family Residential or Cluster Residential. For purposes of this Residential Declaration, the term "acre" means a net acre of land which does not include any area dedicated as public right-of-way. Thus if there is 4.5 net acres in a particular Parcel, the Owner of such Parcel would have 4.5 Memberships as a consequence of such ownership.
- (c) In the case of the Owner of a Parcel with a Land Use Classification of Residential Condominium but as to which a declaration of condominium has not been recorded, one Membership for each Dwelling Unit permitted pursuant to the applicable Tract Declaration or if not specified therein, as permitted upon the Parcel under the Master Development Plan then in effect for the Covered Property, the number of such Dwelling Units to be determined on the assumption that the number of Dwelling Units within a density classification on the Master Development Plan will be spread evenly over all land within the density classification. If a site plan for the Parcel is subsequently approved by the Design Review Committee and the applicable governmental entity having jurisdiction for a number of Dwelling Units different than the number of Dwelling Units assumed pursuant to the Master Development Plan, the number of Memberships will be adjusted, as to the portion of the Parcel covered by the site plan and effective as of the date of adjustment, to reflect the actual number of Dwelling Units authorized by the site plan. All Memberships attributable to the Parcel shall cease when the land area ceases to be a Parcel because all of the area in the Parcel has been subjected to a declaration of condominium.
- (d) In the case of the Owner of a Parcel with a Land Use Classification of Single Family Residential or Cluster Residential, one Membership for each Dwelling Unit permitted upon the Parcel under the applicable Tract Declaration or if not specified therein then one Membership for each Dwelling Unit permitted on the Parcel under the Master Development Plan then in effect for the Covered Property. If a subdivision plat or other instrument creating Lots is recorded covering all or part of the area within the Parcel, the Parcel shall be reduced in size by the area so platted and the number of Memberships held by the Owner, as Owner of the Parcel, shall be reduced by a number equal to the number of Lots in the recorded subdivision plat. All Memberships attributable to the Parcel shall cease when the land area ceases to be a Parcel because all of the area in the Parcel has been platted or otherwise dedicated to the public.

8.2 Memberships Appurtenant to Ownership. Each Membership shall be appurtenant to and may not be separated from ownership of the Lot or Parcel to which the Membership is attributable. There shall be only be the number of Membership specified in Section 8.1 for each Lot or Parcel, which Memberships shall be shared by any joint owners of, or owners of undivided interests in, a Lot or Parcel. Any other provision of this Residential Declaration to the contrary notwithstanding, if an Owner of two adjoining Lots, or an Owner of a Lot and a portion of an adjoining Lot, combines said areas for use as one residence, the combined Lots or the combined Lot and adjoining property, as the case may be, shall be

treated as one Lot hereunder and shall be entitled to one Membership and charged only one Annual Assessment.

8.3 Tenants. Tenants shall not be Members of the Master Residential Association.

8.4 Voting. The Master Residential Association shall have two classes of voting Memberships:

(a) Class A. Class A Memberships shall be all Memberships except the Class B Memberships. Subject to the authority of the Board to suspend the Owner's voting rights for violations of this Residential Declaration as provided in this Residential Declaration, an Owner shall be entitled to one vote for each Class A Membership held by the Owner (and with respect to a fractional membership, a fractional vote equal to the fractional Membership, such that if a particular Owner has 4.5 Memberships, the Owner shall have 4.5 votes).

(b) Class B. The Class B Membership shall be all Memberships held by Declarant, determined on the basis of the number of Lots and Parcels owned by Declarant. Except as otherwise provided in this Residential Declaration, Declarant shall be entitled to three votes for each Class B Membership owned (including fractional votes for fractional Memberships, as provided above). The Class B Membership shall cease and be converted to Class A Memberships, determined on the basis of the number of Lots and Parcels owned by Declarant, on the happening of the first of the following events:

(i) 120 days after the date when the total votes outstanding in the Class A Memberships equal the total votes outstanding in the Class B Membership,

(ii) 15 years from the date of the recording of this Residential Declaration, or

(iii) When Declarant notifies the Master Residential Association, at Declarant's sole option, in writing, that it relinquishes its Class B Membership.

8.5 Right to Vote. No change in the ownership of a Membership shall be effective for voting purposes unless and until the Board is given actual written notice of such change and is provided satisfactory proof thereof. The Membership votes for each Lot or Parcel must be cast as a unit. If a Membership is owned by more than one person or entity and such Owners are unable to agree among themselves as to how their vote or votes shall be cast, they shall lose their right to vote on the matter in question. If any Member casts a vote representing a certain Membership, it will thereafter be conclusively presumed that such Member was acting with the authority and consent of all other Owners of the same Membership unless objection thereto is made to the Board, in writing, at or prior to the time the vote is cast. If more than one vote is cast for a particular Membership, all said votes shall be deemed void.

8.6 Membership Rights. Each Member shall have the rights, duties and obligations set forth in this Residential Declaration and such other rights, duties and obligations as are set forth in the Articles, Bylaws, the Rules and Design Guidelines as the same may be amended from time to time.

8.7 Transfer of Membership. The rights and obligations of the Owner of a Class A Membership shall not be assigned, transferred, pledged, delegated, conveyed or alienated in any way except upon transfer of ownership to an Owner's Lot or Parcel and then only to the transferee thereof. A transfer of ownership of a Lot or Parcel may be effected by deed, intestate succession, testamentary

disposition, foreclosure of a mortgage of record or such other legal process as permitted by Utah law. Any attempt to make a prohibited transfer shall be void. Any transfer of ownership of a Lot or Parcel shall automatically transfer the Membership(s) appurtenant to said Lot or Parcel to the new Owner. Upon the transfer of ownership of any Lot or Parcel (excluding the initial sale by Declarant), the Board, in its discretion, may assess a reasonable transfer fee to cover administrative costs associated with said transfer of ownership.

8.8 Notice and Quorum Requirements. Written notice of any meeting called for the purpose of taking any action authorized under this Residential Declaration shall be sent to all Members no less than 30 days nor more than 60 days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast 60% of all the votes (exclusive of suspended voting rights) of each class of Membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

8.9 Proxy. A Member may vote at any meeting of Members in person or by proxy, as provided in the Bylaws.

8.10 Right of Declarant to Obtain Membership List. Any other provision of this Declaration, the Articles, the Bylaws, the Rules, or the Design Guidelines to the contrary notwithstanding, so long as Declarant owns any portion of the Covered Property, Declarant shall be entitled to receive from the Board, upon request, a complete list of the names and addresses of all members.

## ARTICLE 9 COVENANT FOR ASSESSMENTS AND CREATION OF LIEN

9.1 Creation of Lien and Personal Obligation for Assessments and Maintenance Charges. Declarant, for each Lot and Parcel, hereby covenants and agrees, and each Owner by acceptance of a deed therefor (whether or not it shall be so expressed in such deed) is deemed to covenant and agree, to accept and be subject to mandatory Membership in the Master Residential Association, and to pay to the Master Residential Association all Assessments levied against such Owner's Lot or Parcel. The Reserve Contribution, Annual Assessments, Special Assessments, Special Use Fees and other fees, fines and charges which are the obligation of an Owner hereunder, together with interest, costs, collection agency fees, and reasonable attorneys' fees of the Master Residential Association incurred in connection with the enforcement and collection thereof or in otherwise enforcing this Residential Declaration, shall be a charge and continuing servitude and Assessment Lien upon the Lot or Parcel against which each such Annual Assessment, Special Assessment, and Reserve Contribution or other charge is made and against the Lot or Parcel of an Owner or Resident liable for a Special Use Fee or other charge and, in addition, shall be the personal obligation of the Owner of such Lot or Parcel at the time when such payment becomes due and payable. The Annual Assessments and Special Assessments against each Lot or Parcel shall be based on the number of Memberships appurtenant to the Lot or Parcel. The personal obligation for delinquent Assessments and other charges shall not pass to the successors in title of the Owner unless expressly assumed by them, but the Lot or Parcel shall remain subject to the lien of the delinquent assessment except as provided in Section 10.3. No Owner may waive or otherwise exempt such Owner from liability for Assessments, including, but not limited to, by non-use of Coral Canyon Residential Common Areas or abandonment of such Owner's Lot or Parcel. The obligation to pay Assessments is a separate and independent covenant on the part of each Owner. No diminution, abatement or set-off shall be allowed by reason of any action or failure to act of the Board or Master Residential Association.

9.2 Reserve Contribution. In order to initially provide for the uses and purposes specified in Section 7.9, a Reserve Contribution is established in the amount of \$50.00 per Membership which shall be paid to the Master Residential Association out of the sales proceeds upon the closing of the sale of each Lot or Parcel to the original Owner (other than Declarant or its affiliates) of each said Lot or Parcel. Apartments shall pay the \$50.00 only for the first initial renting of each unit as it becomes originally occupied. If a Parcel is converted to Lots and the Reserve Contribution has previously been paid with respect to the Parcel, no additional Reserve Contributions shall be due with respect to such Lots.

9.3 Annual Assessments.

(a) Establishment of Annual Assessments. In order to provide funds for the uses and purposes specified in Article 7 or otherwise in this Residential Declaration, in each year, commencing with the first Assessment Period, the Board shall prepare and adopt a budget and shall assess against each Lot and Parcel included as Assessable Covered Property an Annual Assessment. Subject to the provisions of Section 9.3(b), the amount of the Annual Assessment shall be in the sole discretion of the Board but shall be determined with the objective of fulfilling the Master Residential Association's obligations under this Residential Declaration and providing for the uses and purposes specified in Article 7 and elsewhere in this Residential Declaration.

(b) Uniform Rate of Annual Assessment. No Annual Assessments, Special Assessments or Reserve Contributions shall be levied on any portion of the Covered Property until any such portion thereof is purchased from Declarant. The amount of any Annual Assessment or Special Assessment against each Lot or Parcel shall be fixed at a uniform rate per Membership.

9.4 Special Assessments for Capital Improvements and Extraordinary Expenses. In addition to the Reserve Contribution and Annual Assessment authorized above, the Master Residential Association may levy a Special Assessment for the purpose of defraying in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Coral Canyon Residential Common Areas, including fixtures and personal property related thereto, or for the purpose of defraying other extraordinary expenses, provided that any such assessment shall have the assent of at least two-thirds of the votes of each class of Members who are voting at a meeting duly called for such purpose. The provisions of this Section are not intended to preclude or limit the assessment, collection or use of Annual Assessments for the aforesaid purposes.

9.5 Establishment of Assessment Period. The period for which the Annual Assessment is to be levied (the "Assessment Period") shall be the calendar year, except that the first Assessment Period shall commence (a) upon the recording of the first Tract Declaration covering property which is not Exempt Property; or (b) upon such later date as the Board, in its sole discretion, shall determine and shall terminate on December 31 of such year. The Board in its sole discretion from time to time may change the Assessment Period.

9.6 Billing and Collection Procedures. The Board shall have the right to adopt procedures for the purpose of making, billing and collecting the Assessments, provided that said procedures are not inconsistent with the provisions hereof. Annual Assessments may be collected on a monthly, quarterly, semi-annual or annual basis as determined by the Board, and Special Assessments may be collected as specified by the Board unless otherwise determined by the resolution of the Members approving the Special Assessment. The failure of the Master Residential Association to send a bill to a Member shall not relieve any Member of such Member's liability for any Assessment or charge under this Residential Declaration, but the Assessment Lien therefor shall not be foreclosed or otherwise enforced until the



Member has been given not less than 15 days written notice prior to such foreclosure or enforcement at the address of the Member on the records of the Master Residential Association, that the Assessment or any installment thereof is or will be due and of the amount owing. Such notice may be given at any time prior to or after the delinquency of such payment. Each Member shall be obligated to inform the Master Residential Association in writing of any change of address. The Master Residential Association shall be under no duty to refund any payments received by it even though the ownership of a Membership changes during an Assessment Period. Successor Owners of Lots or Parcels shall be given credit for prepayments, on a prorated basis, made by prior Owners. The amount of the Annual Assessments against Members who become such during an Assessment Period due to the recordation of a Tract Declaration shall be prorated and such new Members shall not be liable for any previously paid Special Assessments. The Board may delegate to a Subsidiary Association the responsibility for billing and collecting for some or all of the Assessments.

9.7 Collection Costs and Interest on Delinquent Assessment. Any Assessment or installment thereof not paid when due shall be deemed delinquent and shall bear interest from 10 days after the due date until paid at a rate equal to the greater of (a) 18% per annum, or (b) the rate set by the Board, and the Member shall be liable for all costs, including attorneys' fees, which may be incurred by the Master Residential Association in collecting the same. In addition, the Board may charge a late fee for all delinquent payments. The Board may also record a "Notice of Delinquency" against any Lot or Parcel as to which an Assessment is delinquent and constitutes an Assessment Lien and may establish a fixed fee to reimburse the Master Residential Association for the Master Residential Association's cost in recording such Notice, processing the delinquency and recording a notice of payment, which fixed fee shall be treated as a collection cost of the Master Residential Association secured by the Assessment Lien. The Master Residential Association shall not be obligated to release any notice recorded pursuant to this Section until all delinquent Assessments, interest and collection costs have been paid in full, whether or not all of such amounts are set forth in the Notice of Delinquency.

9.8 Evidence of Payment of Assessments. Upon receipt of written request and within a reasonable period of time thereafter, the Master Residential Association shall issue to the requesting party a written certificate stating (a) that all Annual Assessments and Special Assessments, Special Use Fees, and Reserve Contributions (including interest, costs and attorneys' fees, if any, as provided in Section 9.7) have been paid with respect to any specified Lot or Parcel as of the date of such certificate, or (b) if such have not been paid, the amounts due and payable as of such date. The Master Residential Association may make a reasonable charge for the issuance of such certificates, which charge must be paid at the time the request for any such certificate is made. Any such certificate shall be conclusive and binding with respect to any matter therein stated as against any bona fide purchaser of, or lender on, the Lot or Parcel in question.

9.9 Exempt Property. Exempt Property shall be exempt from the payment of Annual Assessments, Special Assessments and Reserve Contributions, but such property shall not be exempt from fines, Special Use Fees, attorneys' fees, costs and expenses as described in Section 9.7; or from the Assessment Lien to secure said amounts; *provided, however*, that if any change of ownership or use of Exempt Property results in all or any part thereof becoming subject to assessment pursuant to this Declaration in any year, the same thereupon shall be subject to the assessment of the Annual Assessments and Special Assessments (prorated as of the date it became Assessable Covered Property), and the Reserve Contributions, and the Assessment Lien therefor. The Owner of Exempt Property shall not be entitled to any Memberships for such Exempt Property.

9.10 Declarant's Exemption.

(a) General Exemption. Anything in this Residential Declaration to the contrary notwithstanding, Declarant shall not be liable for and shall not be required to pay Assessments upon Lots or Parcels owned by Declarant. Nor shall Declarant be liable for the payment of any Assessments for any Lot or Parcel that, having been previously sold to a purchaser, has been deeded back to the Declarant by foreclosure or deed in lieu of foreclosure.

(b) Declarant's Payment Obligations. In consideration for Declarant's exemption from Assessments, Declarant agrees that it shall pay, for any given Assessment Period in which Declarant has paid or contributed to the Master Residential Association less than the full Annual Assessment for each Lot or Parcel owned, the actual shortfall or deficiency, if any, in necessary ordinary operating revenue to pay current ordinary expenses for the operation and maintenance of the Master Residential Association and the Coral Canyon Residential Common Areas, but only up to the full Annual Assessment for each such Lot or Parcel owned. A shortfall or deficiency shall exist if current ordinary expenses of the Master Residential Association are greater than the revenues of the Master Residential Association from all sources for the Assessment Period in question; *provided, however*, that Declarant shall not be liable for any shortfall or deficiency created by any decrease in the amounts of the Annual Assessments from those charged during any prior year nor for any shortfall or deficiency incurred after expiration of the Class B Membership. Declarant may at any time at its sole discretion elect to cease paying the shortfall or deficiency, if any, and to pay up to the full Annual Assessment for each Lot or Parcel owned by Declarant instead. The obligations of Declarant pursuant to this Section 9.10 are not Assessments and are not subject to any Assessment Lien.

9.11 SITLA Exemption. Anything in this Residential Declaration to the contrary notwithstanding, SITLA shall not be liable for and shall not be required to pay Assessments upon Lots or Parcels owned by SITLA (regardless of whether or not SITLA is the "Owner" thereof, as provided in Section 2.6, and regardless of whether or not SITLA is the Declarant, as provided in Section 2.6) and Lots and Parcels owned by SITLA shall not be subject to any Assessment Lien.

## ARTICLE 10

### ENFORCEMENT OF RESIDENTIAL DECLARATION

10.1 Enforcement of Provisions of This and Other Instruments. The Master Residential Association, in the first instance, and the Design Review Committee, each as the agent and representative of the Owners, shall have the right (without obligation) to enforce, by any proceeding at law or in equity, the terms of this Residential Declaration, the Articles, Bylaws, the Rules and Design Guidelines and any and all covenants, restrictions, reservations, charges, servitudes, assessments, conditions, liens or easements provided for in any contract, deed, declaration or other instrument which (a) shall have been executed pursuant to, or subject to, the provisions of this Residential Declaration, or (b) otherwise shall indicate that the provisions of such instrument were intended to be enforced by the Master Residential Association or by Declarant. The Master Residential Association is authorized to impose sanctions for violations without court approval. Such sanctions may include reasonable monetary fines and suspension of the right to vote or use any recreational facilities on the Coral Canyon Residential Common Areas as provided in this Residential Declaration. If suit is brought or an attorney is retained to enforce the terms of this Residential Declaration or other document as described in this Section 10.1, the prevailing party shall be entitled to recover, in addition to any other remedy, reimbursement for attorneys' fees, court costs, costs of investigation and other related expenses incurred in connection therewith, and if the Master



Residential Association is the prevailing party, the above-described fines and also the Master Residential Association's administrative costs and fees. Attorneys' fees, costs and expenses adjudged against an Owner shall be the personal liability of the breaching Owner and shall also be secured by the Assessment Lien against said Owner's Lot or Parcel. If the Master Residential Association and the Design Review Committee shall fail or refuse to enforce this Residential Declaration or any provision hereof for an unreasonable period of time after written request by an Owner to do so, then any Owner may enforce the provisions of the Residential Declaration at such Owner's own expense by any appropriate action, whether in law or in equity.

10.2 Master Residential Association's Remedies to Enforce Payment of Assessments. If any Member fails to pay any Assessments when due, the Master Residential Association may enforce the payment thereof by taking either or both of the following actions, concurrently or separately (and by exercising either of the remedies hereinafter set forth, the Master Residential Association does not prejudice or waive its right to exercise the other remedy):

- (a) Bring an action at law and recover judgment against the Member personally obligated to pay the Assessment; or
- (b) Foreclose the Assessment Lien against the Lot or Parcel in accordance with the then prevailing Utah law relating to the foreclosure of realty mortgages (including any right to recover a deficiency), and the Lot or Parcel may be redeemed after foreclosure sale as provided by law. The Master Residential Association may bid on the subject property at such a foreclosure sale.

Notwithstanding subordination of an Assessment Lien as described in Section 10.3, the delinquent Member shall remain personally liable for the Assessments and related costs after such Owner's Membership is terminated by foreclosure or deed in lieu of foreclosure or otherwise.

10.3 Subordination of Assessment Lien. The Assessment Lien provided for in this Residential Declaration shall be subordinate to any first mortgage lien held by, or first deed of trust of which the beneficiary is a lender who has lent funds, with the Lot or Parcel as security, or held by the lender's successors and assigns, and shall also be subject and subordinate to liens for taxes and other public charges which by applicable law are expressly made superior. Except as above provided, the Assessment Lien shall be superior to any and all charges, liens or encumbrances which hereafter in any manner may arise or be imposed upon each Lot or Parcel. Sale or transfer of any Lot or Parcel shall not affect the Assessment Lien; *provided, however*, that if the sale or transfer is pursuant to foreclosure of a mortgage or a deed of trust to which the Assessment Lien is subordinate, or pursuant to any sale or proceeding in lieu thereof, the purchaser at the mortgage foreclosure or deed of trust sale, or any grantee taking by deed in lieu of foreclosure, shall take the Lot or Parcel free of the Assessment Lien for all Assessments that have accrued up to the date of issuance of a sheriff's or trustee's deed or deed in lieu of foreclosure; *provided, further, however*, that such mortgage or deed of trust foreclosure sale purchaser or grantee shall take title subject to all Assessments accruing subsequent to the date of issuance of a sheriff's or trustee's deed or deed given in lieu of foreclosure.

## ARTICLE 11

### TERM; AMENDMENTS; TERMINATION

11.1 Term; Method of Termination. This Residential Declaration shall be effective upon the date of recordation hereof and, as amended from time to time, shall continue in full force and effect for a

term of 20 years from the date this Residential Declaration is recorded. From and after said date, this Residential Declaration, as amended, shall be automatically extended for successive periods of 10 years each. This Residential Declaration may be terminated at any time by at least 75% of the authorized votes of each class of Members (including votes otherwise eligible to be cast but not represented personally or by valid proxy at such meeting) at a meeting duly called for such purpose. If the necessary votes are obtained, the Board shall cause to be recorded with the County Recorder of Washington County, Utah, a certificate of termination, duly signed by the president or vice president and attested by the secretary or assistant secretary of the Master Residential Association, with their signatures acknowledged. Thereupon this Residential Declaration shall have no further force and effect, and the Master Residential Association shall be dissolved pursuant to the terms set forth in its Articles. Any Master Residential Association funds remaining following such termination and dissolution shall be distributed to the Members and their mortgagees as their interests may appear at a uniform rate per Membership.

11.2 Amendment of Residential Declaration and Tract Declarations. This Residential Declaration may be amended by recording with the County Recorder of Washington County, Utah, a certificate of amendment, duly signed and acknowledged, as required for a certificate of termination in Section 11.1. The certificate of amendment shall set forth in full the amendment adopted, and, except as provided hereafter, shall certify that at an election duly called and held for this purpose pursuant to the provisions of the Articles and Bylaws, such amendment was approved by at least 75% of the authorized votes of each class of Members (including votes otherwise eligible to be cast but not represented personally or by valid proxy at such meeting) at a meeting duly called for such purpose. The Residential Declaration may be amended with respect to all or any portion of the Lots and Parcels covered hereby. Unless otherwise provided in the Tract Declaration, a Tract Declaration may be amended in the same manner as this Residential Declaration, with the approval of 67% of the votes attributable to the Members owning the Lots and Parcels subject to the Tract Declaration. So long as there is a Class B Membership, this Residential Declaration and any Tract Declaration may be amended or terminated only with the written approval of Declarant. Thereafter, except as otherwise provided herein, any amendment to a Tract Declaration must be approved by the Board. This Residential Declaration may not be amended to reduce or alter the rights of Declarant without the approval of Declarant. Declarant alone may amend this Residential Declaration at any time (a) to add additional property to this Residential Declaration as provided in Article 3, (b) to relinquish its right to appoint the members of the Board or Design Review Committee, or (c) to amend as permitted in Section 11.4. In addition, at any time, Declarant alone shall have the right to amend the Residential Declaration or any Tract Declaration to comply with applicable law or to correct any error or inconsistency in the Residential Declaration or a Tract Declaration if the amendment does not adversely affect the rights of any Owner.

11.3 Amendment of Articles and Bylaws. The Articles and Bylaws may only be amended by following the procedure set forth in this Section. The Board shall adopt a resolution setting forth the proposed amendment and directing that it be submitted to a vote at a meeting of Members, which may be either an annual or a special meeting, and if approved by Members holding at least the Applicable Percentage (defined below) of the votes eligible to be cast on the amendment (including votes otherwise eligible to be cast but not represented personally or by valid proxy at such meeting), such amendment shall have been adopted, *provided, however*, that a copy of any such proposed amendment or a summary of the changes to be effected shall have been given to each Member in good standing at least 10 days prior to said meeting of the Members. For purposes hereof, the "Applicable Percentage" means, in the case of an amendment to the Articles, 67%, and in the case of an amendment to the Bylaws, 51%. Any number of amendments may be submitted and voted upon at any one meeting.

11.4 Right of Amendment if Requested by Governmental Agency or Federally Chartered Lending Institutions. Anything in this Article to the contrary notwithstanding, Declarant reserves the

right to amend all or any part of this Residential Declaration and any Tract Declaration, the Articles and/or the Bylaws, to such extent and with such language as may be requested by the Federal Housing Administration, the Veterans Administration, the Federal Home Loan Mortgage Corporation, or the Federal National Mortgage Corporation (or any successor agency) and to further amend any such documents to the extent requested by any other federal, state or local governmental agency which requests such an amendment as a condition precedent to such agency's approval of the Residential Declaration, or by any federally chartered lending institution as a condition precedent to lending funds upon the security of any Lot(s) or Parcel(s) or any portions thereof. Any such amendment shall be effected by the recordation by Declarant of the amendment duly signed by or on behalf of the authorized agents of Declarant with their signatures acknowledged, specifying the federal, state or local governmental agency or the federally chartered lending institution requesting the amendment and setting forth the amendatory language requested by such agency or institution. Recordation of such amendment shall be deemed conclusive proof of the agency's or institution's request for such an amendment and such amendment, when recorded, shall be binding upon all of the Covered Property and all persons having an interest therein.

## ARTICLE 12 MISCELLANEOUS

12.1 Interpretation of the Covenants. Except for judicial construction, the Board shall have the exclusive right to construe and interpret the provisions of this Residential Declaration. In the absence of any adjudication to the contrary by a court of competent jurisdiction, the Board's construction or interpretation of the provisions hereof shall be final, conclusive and binding as to all persons and property benefited or bound by this Residential Declaration.

12.2 Severability. Any determination by any court of competent jurisdiction that any provision of this Residential Declaration is invalid or unenforceable shall not affect the validity or enforceability of any of the other provisions hereof.

12.3 Change of Circumstances. Except as otherwise expressly provided in this Residential Declaration, no change of conditions or circumstances shall operate to extinguish, terminate or modify any of the provisions of this Residential Declaration.

12.4 Declarant's Disclaimer of Representations. Anything to the contrary in this Residential Declaration notwithstanding, and except as otherwise may be expressly set forth on a recorded plat or other instrument recorded in the office of the County Recorder of Washington County, Utah, Declarant makes no warranties or representations whatsoever that the plans presently envisioned or the complete development of the Covered Property can or will be carried out, or that any land now owned or hereafter acquired by Declarant is or will be subjected to this Residential Declaration or any other declaration, or that any such land (whether or not it has been subjected to this Residential Declaration) is or will be committed to or developed for a particular (or any) use, or if that land is once used for a particular use, such use will continue in effect. Not as a limitation of the generality of the foregoing, Declarant expressly reserves the right at any time and from time to time to amend the Master Development Plan.

12.5 No Warranty of Enforceability. While Declarant has no reason to believe that any of the provisions contained in this Residential Declaration are or may be invalid or unenforceable for any reason or to any extent, Declarant makes no warranty or representation as to the present or future validity or enforceability of any of the provisions of this Residential Declaration. Any Owner acquiring a Lot or Parcel in the Covered Property in reliance on one or more of the provisions in this Residential Declaration

shall assume all risks of the validity and enforceability thereof and by acquiring any Lot or Parcel agrees that Declarant shall have no liability therefor.

12.6 References to the Covenants in Deeds. Deeds or any instruments affecting any part of the Covered Property may contain the provisions of this Residential Declaration by reference to this Residential Declaration; but regardless of whether any such reference is made in any deed or instrument, each and all of the provisions of this Residential Declaration shall be binding upon the grantee Owner or other person claiming through any instrument and such Owner's heirs, executors, administrators, successors and assigns.

12.7 Gender and Number. Wherever the context of this Residential Declaration so requires, words used in the masculine gender shall include the feminine and neuter genders; words used in the neuter gender shall include the masculine and feminine genders; words in the singular shall include the plural; and words in the plural shall include the singular.

12.8 Captions and Titles. All captions, titles or headings of the Articles and Sections in this Residential Declaration are for the purpose of reference and convenience only and are not to be deemed to limit, modify or otherwise affect any of the provisions hereof or to be used in determining the intent or context thereon. References in this Residential Declaration to "Articles" and "Sections" are to the Articles and Sections in this Agreement, unless otherwise expressly noted.

12.9 Notices. If notice of any action or proposed action by the Board or of any committee or of any meeting is required by applicable law, this Residential Declaration or resolution of the Board to be given to any Owner or Resident then, unless otherwise specified herein or in the resolution of the Board, such notice requirement shall be deemed satisfied if notice of such action or meeting is published once in any newspaper in general circulation within Washington County or the Covered Property. This Section shall not be construed to require that any notice be given if not otherwise required and shall not prohibit satisfaction of any notice requirement in any other manner. If notice is made by mail, it shall be deemed to have been received 24 hours after a copy of the same has been deposited in the United States mail, postage prepaid, addressed to such person at the address given by that person to the Master Residential Association for the purpose of service of such notice, or to the address of the Lot or Parcel owned by such person if no address has been given. Notice to the Board or to the Design Review Committee shall be delivered or sent certified mail to the office of the Master Residential Association.

12.10 Use of the Words "Coral Canyon" or "Coral Canyon Community Master Residential Association". No person shall use the words "Coral Canyon" or "Coral Canyon Community Master Residential Association" or any derivative thereof in any printed or promotional material without the prior written consent of Declarant. However, Owners may use the terms "Coral Canyon" or "Coral Canyon Community Master Residential Association" in printed or promotional material where such term is used solely to specify that the particular property is located within the Covered Property.

IN WITNESS WHEREOF, the undersigned has executed this Residential Declaration as of the day and year first above written.

**SUNCOR DEVELOPMENT COMPANY,**  
an Arizona corporation,

By: PSH  
Its: V.P.

