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**ALIWOOD COMMONS  
PLANNED UNIT DEVELOPMENT**

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**DECLARATION  
OF  
COVENANTS, CONDITIONS  
AND RESTRICTIONS**

**DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS**  
**of**  
**ALIWOOD COMMONS PLANNED UNIT DEVELOPMENT**  
(a Planned Unit Development, located in  
Bountiful, Utah)

This Declaration of Covenants, Conditions and Restrictions of the Aliwood Commons, Planned Unit Development, is made and executed this day 15<sup>th</sup> of July, 201~~7~~<sup>4</sup>, by each of the persons identified in Exhibit "B" attached hereto, as the Owners (hereinafter referred to as "Owners") and mortgagees (hereinafter referred to as "Condo Mortgagees") of certain portions of the Property subject hereto (which portions of the Property are likewise identified in Exhibit "B").

**RECITALS**

A. This instrument affects the following described tract of land located in Bountiful, Davis County, Utah:

See Exhibit "A" attached hereto;

hereinafter, the "Property."

B. The Property was heretofore committed to a condominium regime, through the execution and recording of the following declaration and plat:

(1) Condominium Declaration of Aliwood Commons, recorded in the Office of the Davis County Recorder, State of Utah, on May 22, 2001, as Entry No. 1662814, in Book 2812, at Page 870;

(2) Record of Survey Map of the Aliwood Commons Condominiums, recorded in the Office of the Davis County Recorder, State of Utah, on May 22, 2001, as Entry No. 1662813, in Book 2812, at Page 869; and

(3) Amended and Restated Condominium Declaration for Aliwood Commons, recorded in the Office of the Davis County Recorder, State of Utah, on March 30, 2006, as Entry No. 2156392, in Book 4002, at Page 1528, and re-recorded on April 13, 2006, as Entry No. 2160038, in Book 4012, at Page 571;

hereinafter collectively referred to as the "Condo Documents."

C. The Owners have elected to terminate the condominium regime with respect to the Property and to substitute in lieu thereof a planned unit development of the Property, and

the Condo Mortgagees have consented to such action. In furtherance thereof, the Condo Documents have been vacated, the condominium regime terminated, and the Property removed from the Utah Condominium Act, pursuant to that certain Agreement for the Vacation of the Aliwood Commons Condominium Declaration and Substitution of Planned Unit Development (the "Condo Termination Document"), which is filed for record in the office of the County Recorder of Davis County, Utah, concurrently with the filing and recording of this Declaration:

D. The parties hereto desire to provide for preservation of the values and amenities in said development and for the maintenance of the Common Areas to be located on the property. To this end and for benefit of the Property and of the Owners thereof, the parties hereto desire to subject the Property to the covenants, conditions, restrictions, easements, charges, and liens hereinafter set forth.

E. The Owners deem it desirable, for the efficient preservation of the values and amenities in the development, to create an entity which shall have the power to maintain and administer the Common Areas, to collect and disburse the assessments and charges hereinafter provided for, and otherwise to administer and enforce the provisions of this Declaration. For such purpose, the Owners have caused to be incorporated under the laws of the State of Utah, as a nonprofit corporation, the Aliwood Commons PUD Owners Association.

NOW, THEREFORE, for the foregoing purposes, Developer and the Owners declare that the Property, as defined below, is and shall be held, transferred, sold, conveyed, and occupied subject to the covenants, conditions, restrictions, easements, charges and liens hereinafter set forth, and the Condo Mortgagees grant their consent to such, upon the following terms and conditions.

## I. DEFINITIONS

When used in this Declaration (including in that portion hereof headed "Recitals") the following terms shall have the meaning indicated.

1.1 Declaration shall mean this Declaration of Covenants, Conditions, and Restrictions, as the same may be amended from time to time.

1.2 Plat shall mean the plat covering the Property, entitled "Aliwood Commons P.U.D.," dated August 5, 2013, prepared and certified by Von R. Hill (a duly registered Utah Land Surveyor, holding Certificate No. 166385), and filed for record in the office of the County Recorder of Davis County, Utah, concurrently with the filing of this Declaration, as the same may be amended from time to time.

1.3 Property shall mean the real property covered by the Plat, the legal description of which is set forth in Exhibit "A" to this Declaration, subject to the exclusions and reservations stated in Article II herein.

1.4 Lot shall mean any of eighteen (18) separately numbered and individually described parcels of land as shown on the Plat, specifically excluding the Common Areas.

1.5 Common Areas shall mean that part of the Property that is not included within the Lots, including interior and incidental roadways, sidewalks, walkways, and curbs adjacent to the Lots, together with all improvements other than utility lines which are now or hereafter constructed or located thereon, owned or to be owned by the Association for the common use and enjoyment of the Owners, as identified on the Plat. The Common Areas to be owned by the Association as of the date of recording of this Declaration are described as follows:

All of the Property, less and excepting Lots 1 through 18, inclusive.

1.6 Residential Unit shall mean a structure or portion of a structure which is designed and intended for residential use, together with all improvements located on such a Lot that are used or intended to be used in conjunction with such Residential Unit.

1.7 Owner shall mean the person who is the owner of record (in the office of the County Recorder of Davis County, Utah) of a fee or an undivided fee interest in any Lot. Notwithstanding any applicable theory relating to a mortgage, deed of trust, or like instrument, the term "Owner" shall not mean or include a mortgagee or a beneficiary or trustee under a deed of trust unless and until such party has acquired title pursuant to foreclosure or any arrangement or proceeding in lieu thereof.

1.8 Association shall mean the Aliwood Commons PUD Owners Association, a Utah nonprofit corporation, which has been heretofore incorporated. References herein to Articles and/or Bylaws shall mean and refer to the Articles of Incorporation and Bylaws of the Association, as the same have been restated and/or amended. References to the Board of Directors or the Board shall refer to the Board of Directors of the Association.

1.9 Bylaws shall mean the Bylaws of the Association. The Bylaws of the Association in effect as of the date of recording of this Declaration are attached hereto as Exhibit "C."

1.10 Member shall mean every person who holds membership in the Association.

1.11 Mortgage shall mean both a first mortgage on any Lot and a first deed of trust on any Lot, and Mortgagee shall mean both a mortgagee under a first mortgage on any Lot and a beneficiary under a first deed of trust on any Lot.

1.12 Owners shall mean the persons and/or entities that, as of the date of recording of this instrument, are the owners of portions of the property described in the Condo Documents, and Condo Mortgagees shall mean the holders of mortgages or trust deeds against the condominium units subject to such instruments, and who are parties to this instrument for the purpose of subjecting their interests in the Property to this Declaration.

## II. PROPERTY DESCRIPTION

The Property that is submitted to, and shall be held, transferred, sold, conveyed, and occupied subject to the provisions of this Declaration, consists of the Property described in Exhibit "A" attached hereto, subject to the following provisions:

2.1 Exclusion of Utilities Easements. There is excluded from the Property all presently existing or to be constructed or installed sewer lines, water mains, gas lines, electrical conduits, telephone lines, and related facilities to the extent they are located outside the Lots included within the Property.

2.2 Right of Access for Maintenance. Each Lot is subject to a right of access reserved and/or granted in favor of the Association for maintenance and upkeep of any portion of any Lot or Residential Unit situated thereon that is the responsibility of the Association under this Declaration. In addition, each Lot is subject to a right of access in favor of utility companies and Bountiful City for maintenance of utilities and storm drains and sewers, if any, located on or adjacent to the Lots.

2.3 Other Easements. There is hereby reserved, for the benefit of all of the Property and the Owners, reciprocal easements of access, ingress and egress over the Common Areas, for the use and enjoyment of the Lots in accordance with this Declaration, including, without limitation for installation and repair of utility services, for drainage over, across and upon adjacent Lots for water resulting from the normal use of adjoining Lots, and for maintenance and repair of any Residence Unit or landscaping located on any Common Areas. No Owner of a Lot shall interfere with the established drainage pattern over his Lot from adjoining or other Lots. Each Lot shall also have a perpetual easement to the extent the footings and/or foundations of any Residential Unit may encroach upon the Common Areas. Each Owner of a Lot shall make adequate provision for drainage with the approval of Bountiful City or other governing authority in the event the Owner changes the established drainage over his Lot.

2.4 Subject to Taxes, Instruments of Record. The Property subjected to this Declaration is subject to all liens for current and future taxes, assessments, and charges imposed or levied by governmental or quasi-governmental authorities; all patent reservations and exclusions; all instruments of record which affect the Property or any portion thereof, including, without limitation, any mortgage or deed of trust (subject, however, to the consents and releases stated in this Declaration); all visible easements and rights-of-way; and all easements and rights-of-way of record.

2.5 Provisions Relating to Termination of Condominium Regime. This Declaration is being recorded to facilitate and effect the replacement of the condominium regime established under the Condo Documents with a planned unit development. In furtherance thereof, the parties agree as follows:

(a) Ownership of Lots. Each Owner is hereby vested with ownership of the Lot (as identified and created pursuant to this Declaration and the Plat), having the same number(s) as the condominium Unit owned by such Owner under the Condo Documents, and the lien and encumbrance of each Condo Mortgagee on a condominium Unit shall be deemed to carry over to the Lot having the same number(s) as such condominium Unit, without interruption, change in priority, or need for the execution or recording of any further instrument. The specific condominium unit(s) owned by each Owner, and encumbered by a mortgage or trust deed in favor of a Condo Mortgagee, as well as the corresponding PUD Lot that is owned by such Owner pursuant to this Declaration and encumbered by the same mortgage or trust deed after conversion to the PUD, are identified in Exhibit "B" attached hereto. Each Owner hereby covenants with his respective Condo Mortgagee to execute and acknowledge such other or further instrument as may be reasonably requested to evidence and/or effectuate the provisions of this subparagraph, including an amendment or restatement of the mortgage or trust deed to set forth the legal description of the Lot encumbered by the mortgage or trust deed.

(b) Conveyance of PUD Lots. To the extent of their respective interests in the Property, the Owners hereby convey all of their right, title and interest in the various Lots located thereon to the persons and entities identified in said Exhibit "B" as the owners thereof.

(c) Conveyance of Common Areas to Association. Upon recording of this Declaration and the Plat, ownership of the Common Areas shall vest in the Aliwood Commons PUD Owners Association, a Utah nonprofit corporation, whose address is c/o ManageCo, 2150 South 1300 East, Suite 500, Salt Lake City, Utah 84106 (mailing address is P.O. Box 526109, Salt Lake City, Utah 84152). Each Owner, as his, her or its interests may appear, hereby conveys and quit claims to the Association, all of his, her or its interest in the Common Areas (subject to the easements and rights created under this Declaration), and the Condo Mortgagees, to the extent their respective mortgages, trust deeds or lien instruments encumber said Common Areas, hereby release and relinquish the such mortgages and trust deeds thereon. To the extent necessary to effect the release of a trust deed with respect to the Common Areas, this Declaration shall constitute a request by each Condo Mortgagee to the trustee under such trust deed to execute and deliver a partial reconveyance of the trust deed with respect to any interest in the Common Areas.

(d) Reservations Effective. To the extent that any provision of this Declaration reserves or conveys an easement or similar property interest to the Association, it is the intent of all of the parties hereto that such reservation or conveyance be effective even though the party purporting herein to reserve or convey such easement or similar property interest is not specifically identified in such provision, each party agreeing that their interests in the Units and the common areas established by the Condo Documents, and their interests in the Lots and Common Areas established hereunder, shall be subject to such reservations and conveyances as though they had been made and effected prior to the conveyance of any interests in the condominium Units to the Owners or Condo Mortgagees.

2.6 Not a Cooperative. The project is not a cooperative.

### III. ASSOCIATION MEMBERSHIP AND VOTING RIGHTS

3.1 Membership. Every Owner shall be a Member of the Association. Membership in the Association shall be mandatory, shall be appurtenant to the Lot in which the Owner has the necessary interest, and shall not be separated from the Lot to which it appertains. Neither the issuance nor the holding of shares of stock shall be necessary to evidence membership in the Association.

3.2 Voting Rights. The Association shall have a single class of voting membership, comprised of all Owners, and each Member shall be entitled to one (1) vote for each Lot owned.

3.3 Purposes and Powers.

(a) The Association's purposes are:

(1) To manage, operate, insure, construct, improve, repair, replace, alter and maintain the Common Areas, subject to the terms and limitations set forth in this Declaration;

(2) To administer and enforce the covenants, conditions, restrictions, reservations, and easements created hereby;

(3) To levy, collect, and enforce the assessments, charges, and liens imposed pursuant hereto;

(4) To take any action that it deems necessary or appropriate to protect the interests and general welfare of the Owners;

(5) To regulate and manage the project; and

(6) To execute and record, on behalf of all Owners, any amendment to this Declaration, or the Plat, or any easement with respect to the Common Areas, that has been approved by the vote or consent necessary to authorize such amendment or easement.

(b) Unless expressly prohibited by law or the Association's Articles or Bylaws, the Association may:

(1) Take any and all actions that it deems necessary or advisable to fulfill its purposes;

(2) Exercise any powers conferred on it by applicable law, by this Declaration, or by the Association's Articles or Bylaws; and

(3) Exercise all powers that may be exercised in Utah by nonprofit corporations.

#### IV. PROPERTY RIGHTS IN COMMON AREAS

4.1 Easement of Enjoyment. Each Member shall have a right and easement of use and enjoyment in and to the Common Areas. Such right shall be appurtenant to and shall pass with title to each Lot and in no event shall be separated therefrom. Any Member may delegate the right and easement of use and enjoyment described herein to any tenant, lessee, or contract purchaser that resides on such Member's Lot.

4.2 Transfer of Title. The Owners, to the extent of their respective rights therein, hereby convey to the Association title to the Common Areas, free and clear of any lien arising through any mortgage existing with respect to any Units in the previous condominium regime, but subject to the matters identified in Article II above, including the easements or rights of way reserved or granted or otherwise enforceable in law or equity.

4.3 Limitations on Easement. A Member's right and easement of use and enjoyment concerning the Common Areas shall be subject to the following:

(a) The right of Davis County, Bountiful City, and any other governmental or quasi-governmental body having jurisdiction over the Property to access and rights of ingress and egress over and across any parking area, walkway, or open area contained within the Property for purposes of providing police and fire protection, and providing any other governmental or municipal service; and

(b) The right of the Association (on behalf of all of the Owners) to dedicate or transfer all or any part of the Common Areas to any public agency or authority for such purposes and subject to such conditions as may be agreed to by the Association. Any such dedication or transfer must, however, be assented to by two-thirds (2/3) of the vote of Members that are present in person or by proxy and are entitled to cast at a meeting duly called for the purpose. Written or printed notice setting forth the purpose of the meeting and the action proposed shall be sent to all Members at least ten (10), but not more than thirty (30), days prior to the meeting date.

(c) The right of the Association to grant and reserve easements and right-of-way through, under, over and across the Common Areas, for the installation, maintenance and inspection of the lines and appurtenances for public or private water, sewer, drainage, gas, electricity, telephone and other utilities.

(d) The right of the Association to suspend the voting rights and right to use of any recreational facilities located in the Common Areas by an Owner for any period during which any assessment against the Owner's Lot remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations.



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

Lot No. \_\_\_ contained within the Aliwood Commons Planned Unit Development, as the same is identified in the Plat recorded in the office of the County Recorder of Davis County, Utah, as Entry No. \_\_\_\_\_, in Book \_\_\_\_\_, at Page \_\_\_\_\_, and in the "Declaration of Covenants, Conditions, and Restrictions of the Aliwood Commons Planned Unit Development," recorded in the office of the County Recorder of Davis County, Utah, as Entry No. \_\_\_\_\_, in Book \_\_\_\_\_, at Page \_\_\_\_\_ (as said Declaration and Plat may have heretofore been amended or supplemented);

TOGETHER WITH a right and easement of use and enjoyment in the Common Areas described, and as provided for, in said Declaration.

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

## V. ASSESSMENTS

5.1 Personal Obligation and Lien. Each Owner shall, by acquiring or in any way becoming vested with his interest in a Lot, be deemed to covenant and agree to pay to the Association the monthly and the special assessments described in this Article, together with all other fines, penalties, interest and costs of collection as described in this Declaration. All such amounts shall be, constitute, and remain: (i) a charge and continuing lien upon the Lot with respect to which such assessment is made; and (ii) the personal obligation of the person who is the Owner of such Lot at the time the assessment falls due. No Owner may exempt himself or his Lot from liability for payment of assessments by waiver of his rights concerning the Common Areas or by abandonment of his Lot.

5.2 Purpose of Assessments. Assessments levied by the Association shall be used to promote the recreation, health, safety, and welfare of the residents of the Property, for the improvement and maintenance of the Common Areas, and for the fulfillment of such other duties and obligations as are assigned to the Association hereunder. The use made by the Association of funds obtained from Assessments may include payment of the cost of: advertising for the common benefit of the Owners, taxes and insurance on the Common Areas, insurance on Residential Units, water, sewer, refuse removal, snow removal, maintenance, repair, and improvements of the Common Areas; management and supervision of the Common Areas; the creation and funding of a reasonable contingency reserve, surplus or sinking fund, Capital Improvement reserve (reserves are intended to cover both Common Areas and any other repairs or replacements that are the obligation of the Association hereunder), and any expense necessary

or desirable to enable the Association to perform or fulfill its obligations, functions, or purposes under this Declaration or its Articles of Incorporation.

5.3 Initial Monthly Assessment; Increases. The monthly assessments, until the same may be changed by the Board of Directors of the Association, are set at One Hundred Forty DOLLARS (\$140.00) per Lot (which is \$1680.00 per annum) as of the date of recording of this Declaration. Assessments shall be paid to the Association by Owners on a monthly basis; however, the Directors of the Association shall have the authority to collect the assessments on another periodic basis, such as quarterly, if it deems it advisable to do so.

(a) From and after January 1 of the year immediately following the recording of this Declaration, the monthly assessment may be increased each year without a vote of the Members by an amount not more than 5% above the monthly assessment for the previous year.

(b) From and after January 1 of the year immediately following the recording of this Declaration, the monthly assessment may be increased by more than 5% above the maximum monthly assessment for the previous year only if the increase is approved by sixty percent (60%) of the votes of each class of Members who are voting in person or by proxy at a meeting duly called for this purpose. Written notice setting forth the purpose of the meeting shall be sent to all Members at least ten (10), but not more than thirty (30), days prior to the meeting date.

(c) The Directors of the Association may from time to time and in their discretion set the amount of the monthly assessment at any sum not in excess of the then applicable maximum amount.

5.4 Special Assessments. In addition to the annual assessments authorized above, the Association may levy special assessments for the purpose of defraying, in whole or in part: (i) any expense or expenses not reasonably capable of being fully paid with funds generated by monthly assessments; or (ii) the cost of any construction, reconstruction, or unexpectedly required repair or replacement of an improvement or of personal property upon the Common Areas. Any such special assessment must be assented to by sixty percent (60 %) of the votes of each class of Members who are voting in person or by proxy at a meeting duly called for this purpose. Written notice setting forth the purpose of the meeting shall be sent to all Members at least ten (10), but not more than thirty (30), days prior to the meeting date.

5.5 Reserve Analysis - Reserve Fund. As used in this section, the term "reserve analysis" means an analysis to determine: (a) the need for a reserve fund to accumulate money to cover the cost of repairing, replacing, and restoring Common Areas and all other facilities, including those portions of the Residential Units for which the Association is responsible for maintenance and repair (see Section 6.1 below), that have a useful life of three years or more, but excluding any cost that can reasonably be funded from the general budget or other funds of the Association of unit owners; and (b) the appropriate amount of any reserve fund.

(a) The Board of Directors shall cause a reserve analysis to be conducted no less frequently than every five (5) years; and review and, if necessary, update a previously conducted reserve analysis no less frequently than every two (2) years.

(b) The Board of Directors may conduct a reserve analysis itself or may engage a reliable person or organization, as determined by the Board of Directors, to conduct the reserve analysis.

(c) The Board of Directors may not use money in a reserve fund: (i) for daily maintenance expenses, unless a majority of the members of the Association vote to approve the use of reserve fund money for that purpose; or (ii) for any purpose other than the purpose for which the reserve fund was established. This may not, however, be construed to limit the Board of Directors from prudently investing money in a reserve fund provided it is government insured.

(d) The Board of Directors shall maintain a reserve fund separate from other funds of the Association.

(e) The Association shall: (i) annually, at the annual meeting of the Association or at a special meeting of the Association: (y) present the reserve study; and (z) provide an opportunity for Unit Owners to discuss reserves and to vote on whether to fund a reserve fund and, if so, how to fund it and in what amount; (ii) prepare and keep minutes of each meeting so held and indicate in the minutes any decision relating to funding a reserve fund; provided, however, and anything to the contrary notwithstanding, the Association shall fund and maintain a reserve account sufficient to satisfy the requirements for certification, if any, by the U.S. Department of Housing and Urban Development.

5.6 Quorum Requirements. Written notice of any meeting called for the purpose of taking any action on which a vote of the Members is authorized or required under this Declaration shall be sent to all Members at least ten (10), but not more than thirty (30), days prior to the meeting date. At the first such meeting called, the presence of Members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present at the first meeting or any subsequent meeting, another meeting may be called, subject to the notice requirement set forth herein, at which a quorum shall be one-half (1/2) of the quorum which was required at the immediately preceding meeting. No such subsequent meeting shall be held more than forty-five (45) days following the immediately preceding meeting.

5.7 Uniform Rate of Assessment. Except as may be expressly stated otherwise herein, both monthly and special assessments shall be fixed at a uniform rate, and, except as expressly stated herein, all costs shall be allocated among the Owners on a per Lot basis.

5.8 Monthly Assessment Due Dates. Monthly assessments shall be due and payable on the first day of each month, or such other date as the Directors of the Association may establish upon notice to the Owners. At least fifteen (15) days prior to the effective date of any

change in amount of the monthly assessment, the Association shall give each Owner written notice of the amount and first due date of the assessed concerned.

5.9 Certificate Regarding Payment. Upon the request of any Owner or prospective purchaser or encumbrancer of a Lot, the Association shall, for a reasonable charge, issue a certificate stating whether or not all assessments respecting such Lot are current and, if not, the amount of the delinquency. Such certificate shall be conclusive in favor of all persons who in good faith rely thereon.

5.10 Lien; Effect of Non-payment; Remedies. The monthly and special assessments, and all other charges to an Owner provided in this Declaration (including interest and costs of collection), shall be a charge on the Owner's Lot and shall be a continuing lien upon the Lot against which each such assessment or charge is made. The person who is the Owner of the Lot at the time the assessment falls due shall be and remain personally liable for payment. Such personal liability shall not pass to the Owner's successors in title unless expressly assumed by them. Any assessments which are not paid when due shall be delinquent. The Board of Directors may also establish a procedure for the assessment of late fees and collection charges on assessments that are not timely paid, with such late fees and collection charges to be set by the Board of Directors, and the Board may include such provisions in the rules and regulations governing the Association. If the assessment is not paid within thirty (30) days after the date on which it becomes delinquent, the amount thereof shall bear interest from the date of delinquency at the rate of eighteen percent (18%) per annum. The Association may bring an action against the Owner who is personally liable and/or to foreclose the lien against the Lot. A suit to recover a money judgment against the Owner may be maintained without foreclosing or waiving the lien provided herein.

5.11 Foreclosure of Lien as Mortgage or Trust Deed. Upon delinquency, the Association may record a notice of lien against the Lot. The Association may avail itself of any nonjudicial remedy then available under Utah law to foreclose or otherwise realize upon the lien, including the exercise of a private power of sale in accordance with the law governing the sale or foreclosure of deeds of trust. The Association shall be entitled to recover from the Owner, and the lien shall secure, the Association's reasonable attorney's fees, court costs, and each and every other expense incurred by the Association in enforcing its rights.

The lien for nonpayment of Assessments may be enforced by sale or foreclosure of the Owner's interest therein by the Board. The sale or foreclosure shall be conducted in the same manner as foreclosures in deeds of trust or mortgages or in any other manner permitted by law. In any foreclosure or sale, the Owner shall pay the costs and expenses of such proceedings, including but not limited to the cost of a foreclosure report, reasonable attorney's fees, and a reasonable rental for the Lot during the pendency of the foreclosure action. The Association in the foreclosure action may require the appointment of a receiver to collect the rental without regard to the value of the mortgage security. The Board may bid for the Lot at foreclosure or other sale and hold, lease, mortgage, or convey the same.

(a) A Lot may be auctioned publicly and sold through either a non-judicial foreclosure (like a bank foreclosing a deed of trust) or through judicial foreclosure. A court order of sale is required for a judicial foreclosure which includes a 6-month redemption period.

(b) For purposes of a non-judicial foreclosure, the Owners executing this Declaration hereby appoint **North American Title, LLC**, being a trustee who qualifies under Utah Code Ann. §57-1-21(1)(a)(i) or (iv), and hereby convey and warrant, pursuant to Utah Code Ann. §§57-1-20 and 57-8a-402 to **North American Title, LLC**, with power of sale, the Lots and all improvements to the Lots for purposes of securing payment of assessments under the terms of this Declaration.

(c) The Association may appoint a qualified substitute trustee, by signing and recording in the office of the county recorder a written substitution of trustee.

(d) At least thirty (30) days prior to starting its non-judicial foreclosure, the Association must send written notice to the Owner informing him or her of the Association's intent to foreclose non-judicially and the Owner's right to demand judicial foreclosure. The notice must be in the form provided by the statute and sent by certified mail.<sup>1</sup> The Owner may object to the non-judicial foreclosure by sending a written demand for judicial foreclosure. The Owner's objection and written demand must be sent to the Association within fifteen (15) days. The Owner's objection and written demand must also be sent by certified mail.

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<sup>1</sup> The form of such notice, as currently provided in Utah law, is as follows:

Notice of Non-Judicial Foreclosure and Right to Demand Judicial Foreclosure

The (insert the name of the Association of unit owners), the Association for the project in which your unit is located, intends to foreclose upon your unit and allocated interest in the common areas and facilities using a procedure that will not require it to file a lawsuit or involve a court. This procedure is being followed in order to enforce the Association's lien against your unit and to collect the amount of an unpaid assessment against your unit, together with any applicable late fees and the costs, including attorney fees, associated with the foreclosure proceeding. Alternatively, you have the right to demand that a foreclosure of your property be conducted in a lawsuit with the oversight of a judge. If you make this demand and the Association prevails in the lawsuit, the costs and attorney fees associated with the lawsuit will likely be significantly higher than if a lawsuit were not required, and you may be responsible for paying those costs and attorney fees. If you want to make this demand, you must state in writing that "I demand a judicial foreclosure proceeding upon my unit," or words substantially to that effect. You must send this written demand by first class and certified U.S. mail, return receipt requested, within fifteen (15) days after the date of the postmark on the envelope in which this notice was mailed to you. The address to which you must mail your demand is (insert the address of the Association of unit owners for receipt of a demand).

(e) The Association may not use a non-judicial foreclosure to enforce a lien if the Owner mails the Association a written demand for judicial foreclosure: (i) by U.S. mail, certified with a return receipt requested; (ii) to the address stated in the Association's Notice of Non-judicial Foreclosure and Right to Demand Judicial Foreclosure; and (iii) within fifteen (15) days after the date of the postmark on the envelope of the Association's Notice of Non-Judicial Foreclosure and Right to Demand Judicial Foreclosure.

(f) If the Association proceeds to foreclose the lien nonjudicially, the Association must follow the provisions of the law applicable to the non-judicial foreclosure of deeds of trust.

## VI. OPERATION AND MAINTENANCE

6.1 Responsibility to Rebuild or Repair. Because the physical condition of each Residential Unit affects the value of every other Residential Unit, the Owner of each Lot shall maintain its Residential Unit in such a manner that it shall have the continued capacity to be used as a Residential Unit, and thus benefit the other Residential Units. The Owner shall not cause or permit to occur any damage, loss or injury to the Owners of the benefitted Residential Units or their tenants by or as a result of any act of negligence or any willful, wanton or reckless act on its part or on the part of its tenant with respect to the Owner's Residential Unit. Should any Residential Unit be damaged or destroyed by fire, flood, wind, snow or any other cause of whatever nature, the Owner shall cause the Residential Unit upon the Lot owned by him to be repaired or rebuilt (subject, however, to the provisions hereof respecting common walls and roof structures). Such repair or rebuilding shall commence not later than ninety (90) days after the occurrence of the damage or destruction and shall be completed not later than one (1) year after such occurrence.

(a) Common Walls and Roofs. The responsibility for effecting repairs and maintenance, and all costs and expenses relating to damages, repair, replacement, restoration, or maintenance that may be necessarily or reasonably incurred to preserve the soundness or structural integrity of (i) a common wall between Residential Units, (ii) the privacy fences between patios, and (iii) the roof structures and roof surfaces of the Residential Units, shall be borne by the Association. However, if any such cost or expense is incurred or necessitated by the act or omission of the Owner(s) of a Lot, that Owner and Lot shall be responsible for payment of all such cost or expense.

(b) Other Repairs. Except as provided herein (with respect to any common wall, the roof and related roofing structures, and/or with respect to the use of insurance proceeds), each Owner shall be responsible for the repair, replacement, restoration and/or maintenance of that Owner's Residential Unit, including, but not limited to, all walls (both exterior and interior), floors, and other parts of the building in which the Residential Unit is located and other structural elements that are within or form the bounds of the Residential Unit. Furthermore, each Owner agrees to reasonably cooperate with the other Owner and shall be

responsible for paying a proportionate cost of repairs and replacements which will benefit both two or more Residential Units.

(c) Insurance. Notwithstanding any provision herein to the contrary, to the extent damage or casualty to a Residential Unit is insured under a policy maintained by the Association, the Association shall be responsible for effecting repairs for such damages or casualties (such to other insurance provisions contained in this Declaration).

6.2 Liability for Physical Damage. Notwithstanding anything to the contrary contained in this Article VI, the Owner, in the course of building, rebuilding, repairing, maintaining or otherwise working or causing work to be done upon his Lot, shall be liable to the Owners of any adjacent Lots and to the Association with respect to the Common Areas for any physical damage to any other Lot or Residential Unit and for any physical damage to any Common Area. The Owner shall cause any such damage to be repaired and the Lot, Residential Unit or Common Area affected to be placed in the same state or condition that it was in prior to said damage. All such repairs shall be subject to the approval of the Directors of the Association.

6.3 Maintenance of Residential Units. Each Residential Unit shall be maintained by the Owner thereof at his own cost and expense so as not to detract from the appearance of the Property and so as not to affect adversely the value or use of any other Residential Units. Except as expressly provided otherwise herein, the Association shall have no obligation regarding maintenance or care of Residential Units.

6.4 Operation and Maintenance by Association. The Association shall provide for such maintenance and operation of the Common Areas as may be necessary or desirable to make them appropriately usable in conjunction with the Lots and to keep them clean, functional, attractive, and generally in good condition and repair. A right of access to each Lot is reserved and/or granted to the Association for the purpose of providing such maintenance and upkeep.

6.5 Liability of Owner During Construction. The Owner, in the course of building, shall not be liable to the Owners of adjacent Lots affected by such work for any inconvenience, annoyance, or disturbance to such Owners by the performance of such work, unless occasioned by the negligence of the Owner of the improvement with respect to which the work in question was being performed, or the negligence of the Owner's agents, contractors or employees; however, the Owner of the Lot or Residential Unit with respect to which such work is being performed shall make all reasonable efforts to keep any such inconvenience, annoyance, disturbance, or loss of business to the minimum reasonably required by the work in question.

6.6 Planter Areas. Planting on each Lot is limited to the front planter areas adjacent to the driveway. The types of plantings in the front planter areas shall be submitted to the Board for advance approval, and shall be maintained by the respective Owners. Owners may not plant vegetation or landscape any portion of the Common Areas or elsewhere on a Lot.

## VII. INSURANCE

7.1 Casualty Insurance on Insurable Common Areas and Residential Units. Unless insurance is not reasonably available, the Association shall keep all insurable improvements and fixtures of the Common Areas and Residential Units, insured against loss or damage by fire for the full insurable replacement cost thereof, and may obtain insurance against such other hazards and casualties as the Association may deem desirable. The Association may also insure any other property, whether real or personal, owned by the Association, against loss or damage by fire and such other hazards as the Association may deem desirable. The insurance coverage shall be written in the name of, and the proceeds thereof shall be payable to, the Association; provided, however, pursuant to Utah Code Ann. §57-8a-405(6), each Owner shall be an insured under the property insurance policies. Insurance proceeds shall be used by the Association for the repair or replacement of the property for which the insurance was carried. Premiums for all insurance carried by the Association are common expenses and shall be paid from the assessments made by the Association.

Pursuant to Utah Code Ann. §57-8a-405(8), each Owner who owns a Lot that has suffered "lot damage" as part of a covered loss is responsible for an amount calculated by applying the "lot damage percentage" for that Lot to the amount of the deductible under the Association's property insurance policy. If an Owner fails to pay the Owner's share of the deductible within 30 days after substantial completion of repairs, the Association may levy an assessment against that Owner for the amount so owed. The Association shall give written notice to each Owner of the amount of the Association's policy deductible, and of any change in the amount of the deductible. Such notice may be included as part of rules and regulations adopted by the Association and distributed to the Owners, and/or may be set forth in minutes of any annual or special meeting that are distributed to the Owners. The Association shall set aside an amount equal to the amount of the Association's property insurance deductible or \$10,000, whichever is less.

7.2 Liability Insurance. The Association shall also maintain an insurance policy or policies insuring the Owners, the Association, and its directors, officers, agents, and employees against any liability incident to the ownership, use, or operation of the Common Areas which may arise among themselves, to the public, and to any invitees or tenants of the Property or of the Owners, with such limits as may be determined by the Association. Such policies shall be issued on a comprehensive liability basis and shall provide a cross-liability endorsement pursuant to which the rights of the named insureds as between themselves are not prejudiced.

7.3 Other Insurance. The Association shall maintain a policy of fidelity insurance covering those employees hired by the Association to handle Association funds, in amounts as determined by the Directors of the Association. The Association shall have the authority to obtain and maintain other insurance, and shall maintain such insurance, such as worker's compensation insurance, if required by applicable law.



7.4 Miscellaneous Insurance Provisions. The Association shall have the authority to adjust losses under policies obtained by the Association. Insurance secured and maintained by the Association shall not be brought into contribution with insurance held by the individual Owners or their mortgagees. Each policy of insurance obtained by the Association shall, if reasonably possible, provide: (i) a waiver of the insurer's subrogation rights with respect to the Association, the Owners, and their respective directors, officers, agents, employee invitees, and tenants; (ii) that it cannot be canceled, suspended, or invalidated due to the conduct of any particular Owner or Owners; (iii) that it cannot be canceled, suspended, or invalidated due to the conduct of the Association or of any director, officer, agent, or employee of the Association without a prior written demand that the defect be cured; and (iv) that any "no other insurance" clause therein shall not apply with respect to insurance held individually by the Owners.

7.5 Owners' Insurance. In addition to coverage obtained by the Association, Owners of individual Lots shall obtain and maintain policies of fire and casualty insurance with respect to all personal property located within their respective Residential Units, and a policy or policies covering against liability incident to the ownership of their separate Lots and improvements thereon. Evidence of such insurance policies shall be provided to the Association upon request.

## VIII. USE RESTRICTIONS

8.1 Use of Common Areas. The Common Areas shall be used only in a manner consistent with the planned unit residential concepts expressed herein and the use restrictions applicable to Lots and Residential Units.

8.2 Use of Units and Residential Units. All Lots are improved with Residential Units and are restricted to such use. No part of the Property shall be used, directly or indirectly, for any business, commercial, manufacturing, mercantile, storing, vending, or other non-residential purpose, other than a home office permitted under applicable zoning ordinances. No Lot or Residential Unit shall be used, occupied, or altered in violation of law, so as to jeopardize the support of any other Residential Unit, so as to create a nuisance or interfere with the rights of any Owner, or in a way which would result in an increase in the cost of any insurance covering the Common Areas.

8.3 Non-harmonious Use. No use or operation will be made, conducted or permitted on any Lot, or any portion of a Lot, which is obnoxious to or out of harmony with the residential use of all property in the Aliwood Commons Planned Unit Development. Prohibited activities include, but are not limited to, the following: any public or private nuisance; any noise or sound that is objectionable due to its intermittent character, beat, frequency, shrillness or loudness; any obnoxious odor; any noxious, toxic, caustic or corrosive fuel or gas; any dust, dirt or fly ash in excessive quantities; any unusual fire, explosion, or other damaging or dangerous hazards; any assembly, manufacture or distillation operation; and the raising of animals except as generally permitted in residential developments in Bountiful City and Davis County, Utah. The Association shall have the authority to determine whether any particular activity is obnoxious or

constitutes a nuisance. The following are also prohibited: Exterior speakers, horns, whistles, bells or other sound devices (other than security devices used exclusively for security purposes; satellite dishes, radio or television antennas; noisy or smokey vehicles, large power equipment or large power tools; evaporative coolers; permanent flag poles; and items that may unreasonably interfere with television or radio reception of any Owner. The Board of Directors of the Association may, in the exercise of its discretion, approve temporary or permanent variances from restrictions set forth in the foregoing sentence, if it determines that good cause exists and the interests of other Owners will not be materially affected.

8.4 Signs. No sign, poster, display, billboard or other advertising device of any kind shall be displayed to the public view on any portion of the Property or any Lot, without the prior written consent of the Association or in accordance with rules and regulations, which shall not be unreasonably delayed or denied. All signs or billboards, and the regulations promulgated for the regulation thereof, shall conform to the requirements of Bountiful City ordinances.

8.5 Recreational Vehicles. No snowmobile, recreational equipment, trailer, camper, boat or truck larger than one (1) ton or any other similar equipment shall be permitted to remain upon any Lot, or the Common Areas, for more than a 24-hour period unless placed within a garage, unless the Association's prior written approval is obtained. The Association may levy a fine for any violation of this paragraph of up to Fifty Dollars (\$50.00) for each day the violation continues.

8.6 On Street Parking. On street parking located on the Property is intended for temporary visitors only. No motor vehicle, boat, recreational equipment, or any similar item may be parked, stored or left on or next to the streets in and around the Property for more than a forty-eight (48) hour period unless written approval is granted by the Association. The Association may levy a fine for any violation of this paragraph of up to Fifty Dollars (\$50.00) for each day the violation continues.

8.7 Use of Garages. Garage are intended for the parking of motor vehicles. Although incidental storage in a garage otherwise used for the parking of motor vehicles is permitted, no garage may be used for storage to such an extent or in such manner that the storage prohibits or otherwise interferes with its primary use in the parking of motor vehicles. The Association may from time to time prescribe detailed rules regarding the use of garage space for storage. The Association may levy a fine for any violation of this paragraph 8.7 or the rules issued by the Association of up to Fifty Dollars (\$50.00) for each day the violation continues.

8.8 [Intentionally omitted.]

8.9 Temporary Structures and Equipment. No structure of a temporary character, trailer, tent, shack, garage, barn, or other out building shall be used on any Lot at any time as a Residential Unit, either temporarily or permanently.

8.10 Rubbish. No rubbish shall be stored or allowed to accumulate anywhere on the Property, except in sanitary containers and at such locations as the Board shall determine from time to time.

8.11 Pets. No animals shall be kept on the Property except for household pets. Such pets may not be kept or bred for any commercial purpose and shall have such care and restraint so as not to be obnoxious or offensive on account of noise, odor or unsanitary conditions to any of the Owners. No savage or dangerous animals shall be kept on the Property. Not more than one household pet may be kept on any Lot or in any Residential Unit without the written permission of the Association. No pets shall be permitted to run loose upon the Common Areas. Any Owner who causes any animal to be brought upon the Property shall indemnify and hold harmless the Association and/or the Owners from and against any loss, damage, or liability which they may sustain as a result of the presence of such animal on the Property, whether or not the Association has given its permission therefore, and shall be responsible for the restoration of the Property or any portion thereof that may be damaged, soiled, or spoiled by such pet.

8.12 Procedures for Imposing Fines. Before assessing a fine against an Owner or Lot pursuant to the terms of this Declaration, the Association shall give notice to the Owner of the violation and inform the Owner that a fine will be imposed if the violation is not cured within the time provided in this Declaration, and/or in the Articles, Bylaws, or Association rules, which shall be at least forty-eight (48) hours. A fine may be assessed only for a violation of a rule or regulation that is specifically listed in the Declaration, Articles, Bylaws or Association rules as an offense for which a fine may be levied, and said fine shall be in the amount specifically provided for in said provisions, not to exceed \$500 per single violation. Cumulative fines for a continuing violation may not exceed \$500 per month. An Owner who is assessed a fine may request an informal hearing to protest or dispute the fine within thirty (30) days from the date the fine is assessed, said hearing to be held before and ruled upon by the Directors of the Association. No interest or late fees shall accrue on the fine until after the hearing has been conducted and a final decision has been rendered. Any unpaid fines, together with interest and late charges assessed thereon, shall become a lien against the Owner's interests in the Lot, and collection thereof may be effected by any method allowed for the collection of assessments.

## **IX. ARCHITECTURAL CONTROL**

9.1 Architectural Control. The Board of Directors of the Association shall have the authority to regulate improvements and landscaping within the Property to insure that they harmonize with the existing surroundings and structures, and comply with the provisions hereof.

9.2 Submission to Board. No Residential Unit, accessory or addition to a Residential Unit, landscaping, sign or other improvement of a Lot shall be constructed or altered, and no alteration, repainting, or refurbishing of the exterior of any Residential Unit shall be performed, unless complete plans and specifications therefor have first been submitted to and approved by the Board, whose judgment shall be final in all cases.

9.3 Standard. In deciding whether to approve or disapprove plans and specifications submitted to it, the Board shall use its best judgment to insure that all improvements, construction, landscaping, and alterations on Lots within the Property conform to and harmonize with existing surroundings and structures, and comply with the provisions hereof.

9.4 Approval Procedure. Any plans and specifications submitted to the Board shall be approved or disapproved by it in writing within thirty (30) days after submission. In the event the Board fails to take any action within such period, it shall be deemed to have approved the material submitted.

9.5 Height Limitation. No dwelling shall exceed the height limitations specified by Bountiful City.

9.6 Swamp Coolers; Mechanical Equipment. No swamp coolers or other roof-top mechanical or similar equipment shall be permitted. All exterior mechanical equipment shall be located as may be approved by the Committee, and in a fashion so as to minimize visibility and noise.

9.7 No Liability for Damages. Neither the Board nor the members thereof shall be held liable for damages by reason of any action, inaction, approval, or disapproval by it with respect to any request made pursuant to this Article IX.

## **X. MORTGAGEE PROTECTION PROVISIONS**

10.1 Notices. From and after the time that a Mortgagee makes written request to the Association therefor, the Association shall give written notice to such Mortgagee in the event an Owner neglects for a period of sixty (60) or more days to cure any failure on his part to perform any of his obligations under this Declaration.

10.2 Mortgagee Lien Priority. The lien for unpaid assessments provided for under Article V shall be subordinate to a Mortgage affecting a Lot that is recorded prior to any notice of lien relating thereto, but only to the extent of assessments which become due prior to foreclosure of the Mortgage, exercise of a power of sale available thereunder, or deed or assignment in lieu of foreclosure.

10.3 Mortgagee Consent to Amendment. Unless all holders of Mortgages on the individual Lots have given their prior written approval, neither the Association nor any other party shall be entitled to:

(a) Alter the provisions of Section 5.7 (pertaining to uniform rate of assessment);

(b) Partition or subdivide any Lot or the Common Area or dedicate or transfer (pursuant to Section 4.3 (c)) all or any part of the Common Areas (provided that the granting of

an easement for public utilities or other public purposes consistent with the intended use of the Common Area by the Association shall be permitted); or

(c) By act or omission seek to abandon or materially alter the arrangement that is established by this Declaration.

10.4 Amendment of this Article. This Article 10 shall not be amended without the approval of all Mortgagees.

## XI. MISCELLANEOUS

11.1 Notices. Any notice required or permitted to be delivered as provided herein shall be in writing and may be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered seventy-two (72) hours after a copy of the same has been deposited in the United States Mail, postage prepaid, addressed to the person at the address given to the Association for the purpose of service of such notice, or to the residence of such person if no address has been given to the Association. Such address may be changed from time to time by notice in writing to the Association.

11.2 Rules and Regulations. The Association shall have authority to promulgate and enforce such reasonable rules, regulations, and procedures as may be necessary or desirable to aid the Association in carrying out any of its functions or to insure that the Property is maintained and used in a manner consistent with the interests of the Owners. The Association may provide for the imposition of fines for violations of such rules.

11.3 Amendment. Except as otherwise expressly provided herein, any amendment to this Declaration shall require the affirmative vote of at least two-thirds (2/3) of the Members who are voting in person or by proxy at a meeting duly called for such purpose. Written notice setting forth the purpose of the meeting and the substance of the amendment proposed shall be sent to all members at least ten (10), but not more than thirty (30), days prior to the meeting date. Any amendment authorized pursuant to this Declaration shall be accomplished through the recordation of an instrument executed by the Association.

11.4 Consent in Lieu of Vote. In any case in which this Declaration requires the assent or affirmative vote of a stated percentage of the votes present or represented at a meeting, such requirement may be fully satisfied by obtaining, with or without a meeting, consents in writing to such action or transaction from Members entitled to vote at least the stated percentage of all membership votes outstanding in connection with the class of membership concerned.

11.5 Interpretation. The captions which precede the articles and sections of this Declaration are for convenience only and shall in no way affect the manner in which any provision hereof is construed. Whenever the context so requires, the singular shall include the plural, the plural shall include the singular, the whole shall include any part thereof, and any gender shall include both other genders. The invalidity or unenforceability of any portion of this

Declaration shall not affect the validity or enforceability of the remainder hereof. This Declaration shall be liberally construed to effect all of its purposes.

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

11.7 Use of Easements. All Owners shall use reasonable restraint when using any easements granted hereunder or exercising any rights granted herein, and due regard shall be given to the preservation of aesthetic values, beautification, upkeep and maintenance of all of the Property, and the use and enjoyment by all of the Owners of their respective Lots.

11.8 Enforcement. This Declaration, the Articles and the Bylaws may be enforced by the Association as follows:

(a) Breach of any of the covenants contained in this Declaration, the Articles or the Bylaws and the continuation of any such breach may be enjoined, abated or remedied by appropriate legal proceedings by an Owner, by the Association, or its successors in interest. In any action or proceeding pursuant hereto, the prevailing party shall be entitled to recover, in addition to all other monetary and equitable relief, its reasonable attorney's fees incurred, costs of collection, and court costs.

(b) The result of every act or omission whereby any of the covenants contained in this Declaration, the Articles or the Bylaws are violated in whole or in part is hereby declared to be and constitutes a nuisance, and every remedy allowed by law or equity against a nuisance, either public or private, shall be applicable against every such result, and may be exercised by any Owner, by the Association, or its successors in interest.

(c) The remedies provided herein, or in the Articles or Bylaws, shall be deemed cumulative, and none of such remedies shall be deemed exclusive.

(d) The failure of the Association to enforce any of the covenants contained herein, or in the Articles or Bylaws, shall not constitute a waiver of the right to enforce the same thereafter.

(e) A breach of the covenants, conditions or restrictions contained in this Declaration, or in the Articles or Bylaws, shall not affect or impair the lien or charge of any bona

fide Mortgage made in good faith and for value on any Lot; provided, however, that any subsequent Owner of such Lot or Residential Unit shall be bound by said covenants, whether such Owner's title was acquired by foreclosure in a trustee's sale or otherwise.

11.9 Effective Date. This Declaration and any amendment hereof shall take effect upon its being filed for record in the office of the County Recorder of Davis County, Utah.

11.10 Bountiful City Ordinances. Nothing contained in this Declaration shall supercede the ordinances or regulations of Bountiful City, to the extent applicable to the Property.

EXECUTED effective as of the day and year first above written.

[Signatures and acknowledgments on following pages.]

Signature page for Owner of  
Aliwood Commons Condominium Unit Nos. 1 and 2, now known as  
Aliwood Commons PUD Lots 1 and 2:

THE ELLEN G. CALLISTER REVOCABLE  
TRUST, u/a June 26, 2006, as amended

*Ellen G. Callister*

Ellen G. Callister, Trustee

*Louis H. Callister*

Louis H. Callister, Trustee

Mailing Address for Tax Notices:

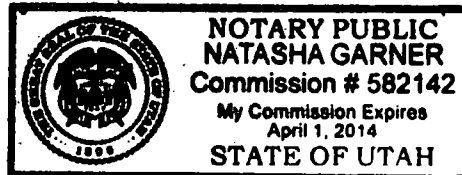
3860 South Highland Court  
Bountiful, Utah 84010

STATE OF UTAH            )  
                                  ) : ss.  
COUNTY OF DAVIS    )

The foregoing instrument was acknowledged before me this 4 day of  
NOVEMBER, 2013, by Ellen G. Callister and Louis H. Callister, as Trustees of The  
Ellen G. Callister Revocable Trust, u/a June 26, 2006, as amended.

*Natasha Garner*

NOTARY PUBLIC





Signature page for Owners of  
Aliwood Commons Condominium Unit Nos. 3 and 16, now known as  
Aliwood Commons PUD Lots 3 and 16:

Ray A. Johnson  
Ray A. Johnson

Kathleen Johnson  
Kathleen Johnson

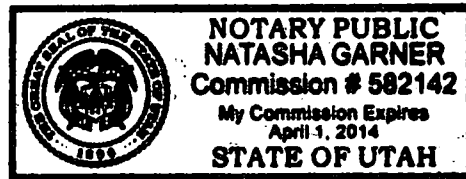
Mailing Address for Tax Notices:

750 West 1300 North  
West Bountiful, Utah 84087

STATE OF UTAH            )  
                                      : ss.  
COUNTY OF DAVIS    )

The foregoing instrument was acknowledged before me this 18 day of  
October, 2013, by Ray A. Johnson and Kathleen Johnson.

Natasha Garner  
NOTARY PUBLIC



Signature page for Mortgagee on  
Aliwood Commons Condominium Unit No. 16, now known as  
Aliwood Commons PUD Lot 16:

MORTGAGE ELECTRONIC REGISTRATION  
SYSTEMS, INC., as nominee for Home Loan  
Corporation

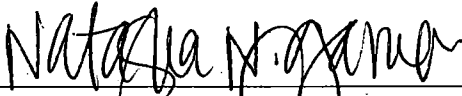
By \_\_\_\_\_  
Its \_\_\_\_\_

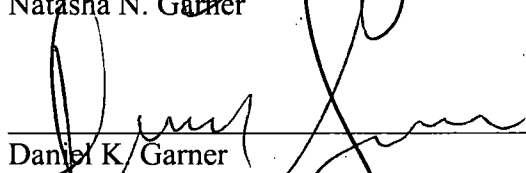
STATE OF \_\_\_\_\_ )  
: ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of  
\_\_\_\_\_, 2013, by \_\_\_\_\_, as the \_\_\_\_\_ of Mortgage  
Electronic Registration Systems, Inc., as nominee for Home Loan Corporation.

\_\_\_\_\_  
NOTARY PUBLIC

Signature page for Owners of  
Aliwood Commons Condominium Unit No. 4, now known as  
Aliwood Commons PUD Lot 4:

  
\_\_\_\_\_  
Natasha N. Garner

  
\_\_\_\_\_  
Daniel K. Garner

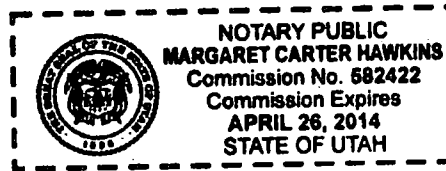
Mailing Address for Tax Notices:

1668 North Aliwood Way  
Bountiful, Utah 84010

STATE OF UTAH            )  
  : ss.  
COUNTY OF Davis        )

The foregoing instrument was acknowledged before me this 16<sup>th</sup> day of  
October, 2013, by Natasha N. Garner and Daniel K. Garner.

  
\_\_\_\_\_  
NOTARY PUBLIC



Signature page for Mortgagee on  
Aliwood Commons Condominium Unit No. 4, now known as  
Aliwood Commons PUD Lot 4:

MORTGAGE ELECTRONIC REGISTRATION  
SYSTEMS, INC., as nominee for Countrywide  
Bank, FSB

By \_\_\_\_\_  
Its \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
  : ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of  
\_\_\_\_\_, 2013, by \_\_\_\_\_, as the \_\_\_\_\_ of Mortgage  
Electronic Registration Systems, Inc., as nominee for Countrywide Bank, FSB.

\_\_\_\_\_  
NOTARY PUBLIC

Signature page for Mortgagee on  
Aliwood Commons Condominium Unit No. 4, now known as  
Aliwood Commons PUD Lot 4:

BANK OF AMERICA, N.A.

By \_\_\_\_\_  
Its \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
: ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of  
\_\_\_\_\_, 2013, by \_\_\_\_\_, as the \_\_\_\_\_ of Bank of  
America, N.A.

\_\_\_\_\_  
NOTARY PUBLIC

Signature page for Owner of  
Aliwood Commons Condominium Unit Nos. 5 and 11, now known as  
Aliwood Commons PUD Lots 5 and 11:

OAK VIEW ENTERPRISE, L.C., a Utah limited  
liability company

By *Frank Henry Landvatter*  
Frank Henry Landvatter, Manager

By *Ruth Gloria Landvatter*  
Ruth Gloria Landvatter, Manager

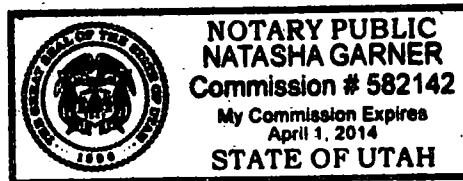
Mailing Address for Tax Notices:

1415 East Indian Trail Road  
Bountiful, Utah 84010

STATE OF UTAH            )  
  : ss.  
COUNTY OF Davis        )

The foregoing instrument was acknowledged before me this 4 day of  
November, 2013, by Frank Henry Landvatter and Ruth Gloria Landvatter, as  
Managers of Oak View Enterprise, L.C., a Utah limited liability company.

*Natasha Garner*  
NOTARY PUBLIC



Signature page for Mortgagee on  
Aliwood Commons Condominium Unit No. 11, now known as  
Aliwood Commons PUD Lot 11:

MORTGAGE ELECTRONIC REGISTRATION  
SYSTEMS, INC., as nominee for Home Loan  
Corporation

By \_\_\_\_\_  
Its \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
: ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2013, by \_\_\_\_\_, as the \_\_\_\_\_ of Mortgage Electronic Registration Systems, Inc., as nominee for Home Loan Corporation.

\_\_\_\_\_  
NOTARY PUBLIC

Signature page for Owner of  
Aliwood Commons Condominium Unit No. 6, now known as  
Aliwood Commons PUD Lot 6:

EGBERT PROPERTIES, L.L.C., a Utah limited  
liability company

By \_\_\_\_\_ ( DECEASED )  
David W. Egbert, Its Member

By Marva Hillyard Egbert  
Marva Hillyard Egbert, Its Member

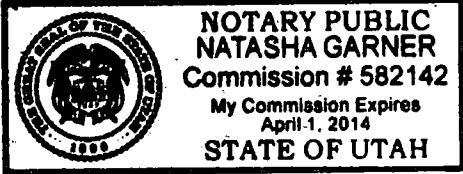
Mailing Address for Tax Notices:

579 Oakview Lane  
Bountiful, Utah 84010

STATE OF UTAH                    )  
  : ss.  
COUNTY OF DAVIS            )

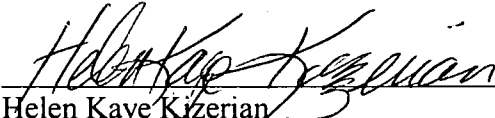
The foregoing instrument was acknowledged before me this 10 day of  
NOVEMBER, 2013, by David W. Egbert and Marva Hillyard Egbert, as the Members of  
Egbert Properties, L.L.C., a Utah limited liability company.

Natasha Garner  
NOTARY PUBLIC





Signature page for Owner of  
Aliwood Commons Condominium Unit No. 7. now known as  
Aliwood Commons PUD Lot 7:

  
\_\_\_\_\_  
Helen Kaye Kizerian

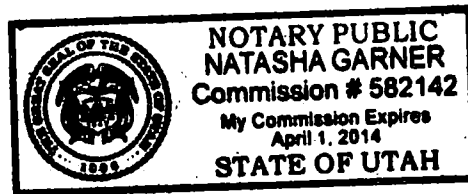
Mailing Address for Tax Notices:

1630 North Aliwood Way  
Bountiful, Utah 84010

STATE OF UTAH                    )  
  : ss.  
COUNTY OF DAVIS            )

The foregoing instrument was acknowledged before me this 18 day of  
October, 2013, by Helen Kaye Kizerian.

  
\_\_\_\_\_  
NOTARY PUBLIC



Signature page for Mortgagee on  
Aliwood Commons Condominium Unit No. 7, now known as  
Aliwood Commons PUD Lot 7:

NATIONAL CITY MORTGAGE, a Division of  
NATIONAL CITY BANK OF INDIANA

By \_\_\_\_\_  
Its \_\_\_\_\_


STATE OF \_\_\_\_\_ )  
: ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of  
\_\_\_\_\_, 2013, by \_\_\_\_\_, as the \_\_\_\_\_ of National  
City Mortgage, a division of National City Bank of Indiana.

\_\_\_\_\_  
NOTARY PUBLIC

Signature page for Owner of  
Aliwood Commons Condominium Unit No. 8, now known as  
Aliwood Commons PUD Lot 8:

HALTERMAN RENTALS, LLC, a Utah  
limited liability company

By   
K. Rocky Halterman, Its Manager

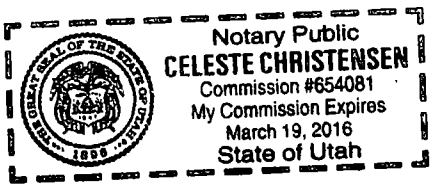
Mailing Address for Tax Notices:

P.O. Box 1103  
Centerville, Utah 84014

STATE OF UTAH            )  
                                      : ss.  
COUNTY OF Davis    )

The foregoing instrument was acknowledged before me this 3 day of  
July, 2014, by K. Rocky Halterman, as the manager of Halterman Rentals, LLC,  
a Utah limited liability company.

  
NOTARY PUBLIC







Signature page for Owner of  
Aliwood Commons Condominium Unit No. 9, now known as  
Aliwood Commons PUD Lot 9:

*Laurie Lynn Hallam*  
Laurie Lynn Hallam

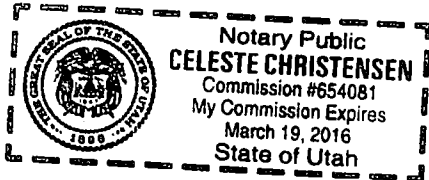
Mailing Address for Tax Notices:

1618 N Aliwood Way  
Bountiful, Utah 84010

STATE OF UTAH            )  
  : ss.  
COUNTY OF Davis    )

The foregoing instrument was acknowledged before me this 3 day of  
July, 2014, by Laurie Lynn Hallam.

*[Signature]*  
NOTARY PUBLIC



Signature page for Mortgagee of  
Aliwood Commons Condominium Unit No. 9, now known as  
Aliwood Commons PUD Lot 9:

NO MORTGAGEE

Signature page for Owners of  
Aliwood Commons Condominium Unit No. 10, now known as  
Aliwood Commons PUD Lot 10:

Melvin J. Miles  
Melvin J. Miles

Laura J. Miles  
Laura J. Miles

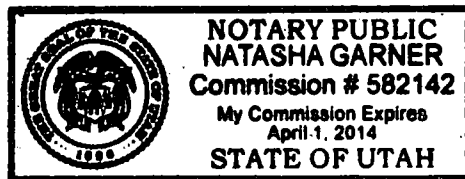
Mailing Address for Tax Notices:

33 West 1350 North  
Centerville, Utah 84014

STATE OF UTAH                    )  
  : ss.  
COUNTY OF Davis            )

The foregoing instrument was acknowledged before me this 4 day of  
November, 2013, by Melvin J. Miles and Laura J. Miles.

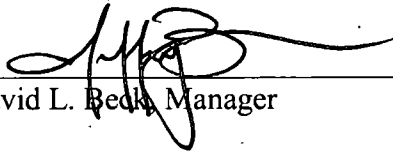
Natasha Garner  
NOTARY PUBLIC





Signature page for Owner of  
Aliwood Commons Condominium Unit No. 12, now known as  
Aliwood Commons PUD Lot 12:

PARK DRIVE, LLC, a Utah limited liability  
company

By   
David L. Beck, Manager

\_\_\_\_\_  
Robyn L. Beck, Manager

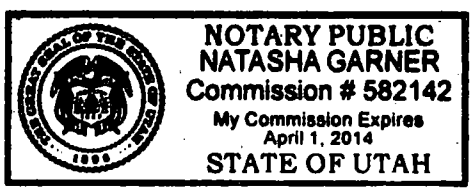
Mailing Address for Tax Notices:

1891 South 1200 East  
Bountiful, Utah 84010

STATE OF UTAH            )  
                                      : ss.  
COUNTY OF DAVIS    )

The foregoing instrument was acknowledged before me this 11 day of  
November, 2013, by David L. Beck and Robyn L. Beck, as managers of Park  
Drive, LLC, a Utah limited liability company.

  
NOTARY PUBLIC



Signature page for Owner of  
Aliwood Commons Condominium Unit No. 13, now known as  
Aliwood Commons PUD Lot 13:

THE CLAUDE R. & COLEEN B. SNOW LIVING  
TRUST, dated March 1, 2002

By Claude R. Snow  
Claude R. Snow, Trustee

By Coleen B. Snow  
Coleen B. Snow, Trustee

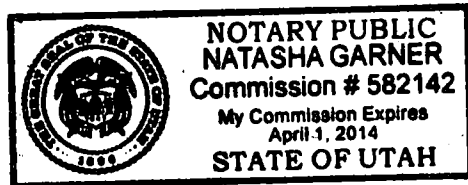
Mailing Address for Tax Notices:

1531 Emerald Hills Drive  
Bountiful, Utah 84010

STATE OF UTAH                    )  
  : ss.  
COUNTY OF DAVIS            )

The foregoing instrument was acknowledged before me this 4 day of  
November, 2013, by Claude R. Snow and Coleen B. Snow, as Trustees of The Claude  
R. & Coleen B. Snow Living Trust, dated March 1, 2002.

Natasha Garner  
NOTARY PUBLIC



Signature page for Owner of  
Aliwood Commons Condominium Unit No. 14, now known as  
Aliwood Commons PUD Lot 14:

Susan Wilson  
Susan Wilson Stevenson, now known as Susan  
Wilson

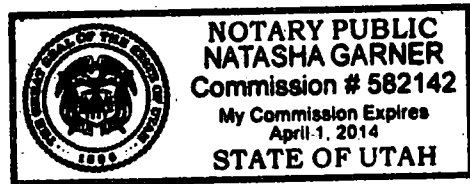
Mailing Address for Tax Notices:

1629 North Aliwood Way  
Bountiful, Utah 84010

STATE OF UTAH            )  
  : ss.  
COUNTY OF DAVIS    )

The foregoing instrument was acknowledged before me this 4 day of  
NOVEMBER, 2013, by Susan Wilson Stevenson, now known as Susan Wilson.

Natasha Garner  
NOTARY PUBLIC



Signature page for Mortgagee on  
Aliwood Commons Condominium Unit No. 14, now known as  
Aliwood Commons PUD Lot 14:

MORTGAGE ELECTRONIC REGISTRATION  
SYSTEMS, INC., as nominee for Veritas Funding,  
LLC

By \_\_\_\_\_  
Its \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
: ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of  
\_\_\_\_\_, 2013, by \_\_\_\_\_, as the \_\_\_\_\_ of Mortgage  
Electronic Registration Systems, Inc.

\_\_\_\_\_  
NOTARY PUBLIC

Signature page for Owner of  
Aliwood Commons Condominium Unit No. 15, now known as  
Aliwood Commons PUD Lot 15:



\_\_\_\_\_  
F. Daniel Quintans

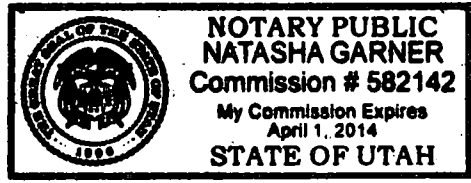
Mailing Address for Tax Notices:

P.O. Box 213  
Bountiful, Utah 84011

STATE OF UTAH                    )  
  ) : ss.  
COUNTY OF DAVIS            )

The foregoing instrument was acknowledged before me this 18 day of  
October, 2013, by F. Daniel Quintans.

  
\_\_\_\_\_  
NOTARY PUBLIC



Signature page for Owner of  
Aliwood Commons Condominium Unit No. 17, now known as  
Aliwood Commons PUD Lot 17:

Amanda Lloyd  
Amanda Lloyd

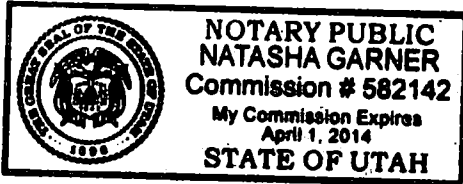
Mailing Address for Tax Notices:

1659 North Aliwood Way  
Bountiful, Utah 84010

STATE OF UTAH                    )  
  : ss.  
COUNTY OF DAVIS            )

The foregoing instrument was acknowledged before me this 7 day of  
November, 2013, by Amanda Lloyd.

Natasha Garner  
NOTARY PUBLIC



Signature page for Mortgagee on  
Aliwood Commons Condominium Unit No. 17, now known as  
Aliwood Commons PUD Lot 17:

WASHINGTON MUTUAL BANK, a Washington  
corporation

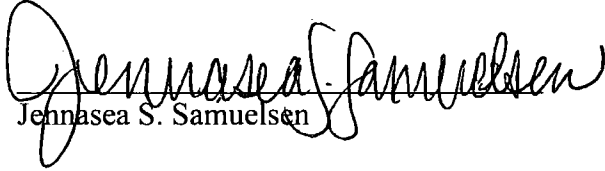
By \_\_\_\_\_  
Its \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
: ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of  
\_\_\_\_\_, 2013, by \_\_\_\_\_, as the \_\_\_\_\_ of  
Washington Mutual Bank, a Washington corporation.

\_\_\_\_\_  
NOTARY PUBLIC

Signature page for Owner of  
Aliwood Commons Condominium Unit No. 18, now known as  
Aliwood Commons PUD Lot 18:

  
Jennasea S. Samuelsen

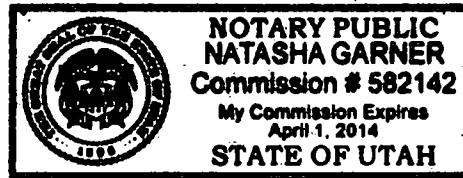
Mailing Address for Tax Notices:

1665 North Aliwood Way  
Bountiful, Utah 84010

STATE OF UTAH                    )  
  : ss.  
COUNTY OF DAVIS            )

The foregoing instrument was acknowledged before me this 29 day of  
October, 2013, by Jennasea S. Samuelsen.

  
\_\_\_\_\_  
NOTARY PUBLIC









**EXHIBIT "A"**

**LEGAL DESCRIPTION OF PROPERTY**

The following real property, located in Davis County, Utah, is made subject to this instrument:

Beginning at a point on the West line of Country Springs Condominiums Phase 10, according to the official plat thereof, said point lies North 89°39'48" West 669.41 feet along the quarter section line and North 00°07'13" East 30.12 feet from the center of Section 18, Township 2 North, Range 1 East, Salt Lake Base & Meridian; and running thence South 00°07'13" West 309.45 feet along said West line to the North line of Pages Lane; thence North 89°44'26" West 208.73 feet along said North line to the East line of 200 West Street; thence North 00°07'13" East 309.45 feet along said East line; thence South 89°44'26" East 208.73 feet; to the point of beginning.

Property contains 1.483 acres.

The foregoing described parcel was, prior to the vacation of the condominium regime occurring concurrently with the recording of this instrument, described as follows:

Unit Nos. 1 through 18 contained within the Aliwood Commons Condominiums, as the same are described in the Condominium Declaration for Aliwood Commons, recorded in the Office of the Davis County Recorder, State of Utah, on May 22, 2001, as Entry No. 1662814, in Book 2812, at Page 870; Record of Survey Map of the Aliwood Commons Condominiums, recorded in the Office of the Davis County Recorder, State of Utah, on May 22, 2001, as Entry No. 1662813, in Book 2812, at Page 869; and Amended and Restated Condominium Declaration for Aliwood Commons, recorded in the Office of the Davis County Recorder, State of Utah, on March 30, 2006, as Entry No. 2156392, in Book 4002, at Page 1528, and re-recorded on April 13, 2006, as Entry No. 2160038, in Book 4012, at Page 571, and the respective undivided interests in the commons areas appurtenant to said condominium units.

Tax Parcel Nos. 03-199-0001 through -0019.

**EXHIBIT "B"**

This Exhibit "B" sets forth the Unit numbers of the condominium units under the Condo Documents (as defined in the foregoing Declaration), the Owner(s) of said Units, the current Condo Mortgagees of said Units (reflecting any assignments of the beneficial interests under trust deed), and the corresponding Lot numbers, as described in the foregoing Declaration and the accompanying Plat, that will be owned and encumbered by said Owner(s) and Mortgagees, respectively, upon recording of this Declaration, with the liens of the Mortgagees, if any, having the same priority as existed with respect to the Units:

Condo Unit No.	Owner(s) and form of ownership (i.e., joint tenants), if stated	Mortgagee(s)	PUD Lot No.
1	Ellen G. Callister and Louis H. Callister, as Trustees of The Ellen G. Callister Revocable Trust, u/a June 26, 2006, as amended	None.	1
2	Ellen G. Callister and Louis H. Callister, as Trustees of The Ellen G. Callister Revocable Trust, u/a June 26, 2006, as amended	None.	2
3	Ray A. Johnson and Kathleen Johnson, husband and wife as joint tenants, with full rights of survivorship	None.	3
4	Natasha N. Garner and Daniel K. Garner, wife and husband as joint tenants	(a) Mortgage Electronic Registration Systems, Inc., as nominee for Lender, Countrywide Bank, FSB; (b) Bank of America, N.A.	4
5	Oak View Enterprise, L.C.	None.	5
6	Egbert Properties, L.L.C.	None.	6
7	Helen Kaye Kizerian, an unmarried woman	National City Mortgage, a division of National City Bank of Indiana	7
8	Halterman Rentals, LLC	(a) American General Financial Services, Inc.; (b) Wells Fargo Bank, N.A.	8

Condo Unit No.	Owner(s) and form of ownership (i.e., joint tenants), if stated	Mortgage(s)	PUD Lot No.
9	Laurie Hallam	None.	9
10	Melvin J. Miles and Laura J. Miles, husband and wife as joint tenants	None.	10
11	Oak View Enterprise, L.C.	Mortgage Electronic Registration Systems, Inc., as nominee for Lender, Home Loan Corporation	11
12	Park Drive, LLC, a Utah limited liability company	None.	12
13	Claude R. and Coleen B. Snow, as Trustees of The Claude R. & Coleen B. Snow Living Trust, dated March 1, 2002	None.	13
14	Susan Wilson Stevenson, single woman (who is now known as Susan Wilson)	Mortgage Electronic Registration Systems, Inc., as nominee for Lender, Veritas Funding, LLC	14
15	F. Daniel Quintans, a single person	None.	15
16	Ray A. Johnson and Kathleen Johnson, husband and wife, as joint tenants	Mortgage Electronic Registration Systems, Inc, ad nominee for Lender, Home Loan Corporation	16
17	Amanda Lloyd, an unmarried individual	Washington Mutual Bank, Washington corporation	17
18	Jennasea S. Samuelsen, an unmarried woman	(a) CitiMortgage, Inc.; (b) Mortgage Electronic Registration Systems, Inc, ad nominee for Lender, New Freedom Mortgage Corporation	18

**EXHIBIT "C"**

**BYLAWS OF ALIWOOD COMMONS PUD OWNERS ASSOCIATION**

See Attachment.


**AFFIDAVIT OF TYLER S. LAMARR**

STATE OF UTAH                    )  
  : ss.  
COUNTY OF SALT LAKE        )

Tyler S. LaMarr, having been sworn upon oath deposes and says as follows:

1. I am an attorney at law licensed to practice law in the State of Utah and employed by the law firm of Vial Fotheringham LLP.
2. I represent the Aliwood Commons Condominium Association with respect to its conversion from a Utah Condominium Association to a Utah Planned Unit Development.
3. The Association is authorized to presume a security holder's consent to amend its governing documents so long as the Association follows the requirements outlined in Utah Code Section §57-8-41.
4. Pursuant to Utah Code Section §57-8-41, I provided (a) written notice by letter on or about January 20, 2014, to all security holders of the proposed amendments to the Aliwood Governing documents; (b) the allotted time by which they must respond; (c) the resultant presumption of consent in the event they fail to respond and (d) a consent form and draft of the amended documents to each security holder.
6. As of May of 2014, no consent forms and no objections had been received from any affected security holder. On or about May 20, 2014, I sent a follow up letter via certified mail, return receipt, to each verified lender indicating that because we had not heard back from them, according to U.C.A. § 57-8-41, we had presumed their consent to the amendments (See attached Exhibit A with return mail receipts).
7. As of the date of this affidavit, no affected security holder has refused to accept or otherwise objected to the proposed amendments.


DATED this 15th day of July, 2014.




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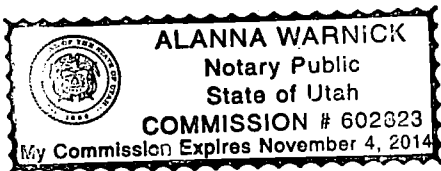
Tyler S. LaMarr

Subscribed, sworn to and acknowledged to this 15th day of July, 2014.




---

NOTARY PUBLIC



**AMENDED AND RESTATED BYLAWS  
OF  
ALIWOOD COMMONS PUD OWNERS ASSOCIATION  
(A Utah Nonprofit Corporation)**

**ARTICLE I**

**OFFICES**

1.01. Principal Office. The initial principal office for the transaction of the business of Aliwood Commons PUD Owners Association shall be located at c/o ManageCo, 2150 S 1300 E Ste 500 Salt Lake City, Utah 84106 (the mailing address is P.O. Box 526109, Salt Lake City, Utah 84152). The Board of Directors is hereby granted full power and authority to change, from time to time, said principal office.

1.02. Other offices. Branch or subordinate offices may at any time be established by the Board of Directors at any place or places where the Association is qualified to do business.

**ARTICLE II**

**DEFINITIONS**

2.01 “Association” shall mean and refer to the Aliwood Commons PUD Owners Association, its successor and assigns.

2.02 “Declaration” shall mean and refer to the Aliwood Commons PUD Declaration of Covenants, Conditions, and Restrictions, applicable to the Property, which is recorded in the Office of Davis County Recorder, as the same may be amended from time to time.

2.03 “Property” shall mean the real property described in the Declaration, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

2.04 “Lot” shall mean any of the separately numbered and individually described parcels of land as shown on the Plat, specifically excluding the Common Areas.

2.05 “Common Areas” shall mean that part of the Property that is not included within the Lots, and including interior and incidental roadways, sidewalks, walkways, and



curbs, within or adjacent to the Lots, together with all improvements other than utility lines which are now or hereafter constructed or located thereon, as identified on the Plat.

2.06 “Member” shall mean every person who holds membership in the Association, as provided in the Declaration and in the Articles of Incorporation of the Association.

2.07 “Owner” shall mean the person who is the owner of record (in the office of the County Recorder of Davis County, Utah) of a fee or an undivided fee interest in any Lot. Notwithstanding any applicable theory relating to a mortgage, deed of trust, or like instrument, the term “Owner” shall not mean or include a mortgagee or a beneficiary or trustee under a deed of trust unless and until such party has acquired title pursuant to foreclosure or any arrangement or proceeding in lieu thereof.

2.08 “Plat” shall mean the plat covering the Property, entitled “Aliwood Commons P.U.D.,” dated August 5, 2013, prepared and certified by Von R. Hill (a duly registered Utah Land Surveyor, holding Certificate No. 166385), and which was filed for record in the office of the County Recorder of Davis County, Utah, as the same may be amended from time to time.

2.09 “Limited Common Areas” shall mean and refer to certain portions of the Common Areas designated on the Plat, which are reserved for use by the Owner of a certain Lot to the exclusion of other Owners.

2.10 “Residential Unit” shall mean a structure or portion of a structure which is designed and intended for residential use, together with all improvements located on such Lot that are used or intended to be used in conjunction with such Residential Unit.

Other capitalized terms used but not defined herein shall have the meanings set forth in the Declaration.

### ARTICLE III

#### MEMBERSHIP

3.01. Qualifications. Each person that is an owner of record (in the office of the County Recorder of Davis County, Utah) of a fee or an undivided fee interest in any Lot located in the Aliwood Commons Planned Unit Development, a PUD located in Bountiful, Davis County, Utah, shall be a Member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment by the Corporation.

3.02. Privileges of Members. All Members shall be equally privileged to attend all membership meetings and take part in all membership meetings, and shall be eligible to hold any office or position within the Association, so long as they comply with the Bylaws, including the payment of dues to the Association. No Member under sentence of suspension shall take part in any proceedings of the Association or be elected to any office of the Association.

3.03. Voting. There shall be one vote allocated to each Lot, which shall be cast as agreed by all Members owning an interest in such Lot. If the Members owning an interest in a Lot are unable to agree how their vote should be cast, then the vote attributable to such Lot shall not be counted.

## ARTICLE IV

### MEETINGS OF MEMBERS

4.01. Annual Meetings. The first annual meeting of the Members shall be held no later than thirteen months after the incorporation of the Association, on a day fixed by the Board of Directors, and a regular annual meeting of the Members shall be held in each calendar year thereafter on a date specified by the Board of Directors.

4.02. Special Meetings. Special meetings of the Members may be called at any time by the president or by the Board of Directors, or upon written request of the Members who are entitled to vote one-third (1/3) of all of the votes of the Association.

4.03. Notice of Meetings. Written or printed notice of each meeting of the Members shall be given by, or at the direction of, the secretary or person authorized to call the meeting, by hand delivery, by mailing a copy of such notice, postage prepaid, or by electronic transmission (such as by fax or email) and shall be transmitted to all Members at least ten (10), but not more than thirty (30), days prior to the meeting date, at the Member's address last appearing on the books of the Association. Members having the same address (or fax number or email address) may be given a single notice addressed jointly to such Members. Such notice shall specify the place, date, and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting.

4.04. Electronic Attendance; Quorum. The Board of Directors may authorize electronic attendance of the Members at any annual or special meeting, and shall do so if technologically and financially feasible, the intent being to facilitate participation by the Members notwithstanding their diverse locations. Electronic attendance shall include telephone or video conferencing, or any similar electronic method pursuant to which the Members may hear and participate in the meeting. Members that participate in a meeting by electronic attendance shall be deemed to be present at the meeting for all purposes. The Board of Directors may also authorize attendance by any other means authorized by Utah law. The presence of Members or of

proxies entitled to cast sixty percent (60%) of all the votes shall constitute a quorum. If the required quorum is not present at the first meeting or any subsequent meeting, another meeting may be called, subject to the notice requirement set forth herein, at which a quorum shall be one-half (½) of the quorum which was required at the immediately preceding meeting. No such subsequent meeting shall be held more than forty-five (45) days following the immediately preceding meeting.

4.05 Proxies. At all meetings of Members, each Member may vote in person or by proxy. All proxies shall be in writing and filed with the secretary. Every proxy shall be revocable and shall automatically cease upon conveyance by a Member of his Lot.

4.06 Action Taken Without Meeting. The Members shall have the right to take any action or give any approval in the absence of a meeting which they could take at a meeting by obtaining the written approval of such percentage of the Members as may be required. Written approval includes approval transmitted by electronic communication, such as email or fax. Any action so approved shall have the same effect as though taken at a meeting of the Members.

## ARTICLE V

### BOARD OF DIRECTORS; SELECTION, TERM OF OFFICE

5.01 Number. The number of Directors of the Association shall be three (3). The number of Directors may be changed by amendment to these Bylaws.

5.02 Term of Office. The initial Board of Directors specified in the Articles of Incorporation shall serve until the first annual meeting of the Members. At the first annual meeting of the Members, and at each annual meeting thereafter, the Members shall elect three (3) new Directors, to serve for one (1) year or until the next annual meeting of the Members. Directors need not be Members of the Association.

5.03 Removal. Any Director may be removed from the Board, with or without cause, by a majority vote of the Members. In the event of death, resignation or removal of a Director, his successor shall be selected by the remaining Directors and shall serve for the unexpired term of his predecessor.

5.04 Compensation. No Director shall receive compensation for any service he may render to the Association; however, any Director may be reimbursed for his actual expenses incurred in the performance of his duties.

5.05 Electronic Meetings; Action Taken Without Meeting. The Directors may meet by telephone or video conference or any other method approved by the Directors or otherwise as permitted by Utah law. The Directors shall have the right to

take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all the Directors. Any action so approved shall have the same effect as though taken at a meeting of the Directors.

## ARTICLE VI

### NOMINATION AND ELECTION OF DIRECTORS

6.01 Nomination. Nomination for election to the Board of Directors shall be made by a Nominating Committee. Nominations may also be made from the floor at the annual meeting. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board of Directors, and two or more Members of the Association (who may also be members of the Board of Directors). The Nominating Committee shall be appointed by the Board of Directors prior to each annual meeting of the Members to serve from the close of such annual meeting until the close of the next annual meeting and such appointment shall be announced at each annual meeting.

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

## ARTICLE VII

### MEETINGS OF DIRECTORS

7.01 Regular Meetings. Regular meetings of the Board of Directors shall be held at such intervals as may be fixed from time to time by resolution of the Board, and no further notice of such regular meetings need be given to the Directors.

7.02 Special Meetings. Special meetings of the Board of Directors shall be held when called by the president of the Association, or by any two Directors, after not less than three (3) days' notice to each Director.

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

## ARTICLE VIII

### POWERS AND DUTIES OF THE BOARD OF DIRECTORS

8.01 Powers. The Board of Directors shall have power to:

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

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

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

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

(e) exercise all rights and powers given to the Board of Directors by the Declaration;

(f) designate the person authorized to receive service of process for the Association and/or as provided in the Utah statutes governing condominiums, and to execute and record an appropriate instrument giving notice of such appointment; and

(g) subject to the provisions of the Declaration, employ a manager, an independent contractor, or such other employees as they deem necessary, and to prescribe their duties.

8.02 Duties. It shall be the duty of the Board of Directors to:

(a) cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the Members at the annual meeting of the Members, or at any special meeting when such statement is requested in writing by one-fourth (1/4) of the Members who are entitled to vote;

- (b) supervise all officers, agents and employees of this Association, and to see that their duties are properly performed;
- (c) as more fully provided in the Declaration, to:
  - (1) fix the amount and frequency of the assessments payable by each Lot;
  - (2) send written notice of each assessment to every Owner subject thereto at least fifteen (15) days in advance of any change in the assessment; and
  - (3) take action to collect any delinquent assessments pursuant to the remedies stated in the Declaration, or other remedies available under applicable law;
- (d) issue, or to cause an appropriate officer or agent to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment;
- (e) procure and maintain adequate liability and hazard insurance on property owned by the Association;
- (f) cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate, and if so required by the Declaration;
- (g) subject to the provisions of the Declaration regarding Limited Common Areas, cause the Common Areas to be maintained.

## ARTICLE IX

### OFFICERS AND THEIR DUTIES

9.01 Enumeration of Officers. The officers of this Association shall be a president and vice-president, who shall at all times be members of the Board of Directors, a secretary, and a treasurer, and such other officers as the Board may from time to time by resolution create. Officers need not be Members.

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

9.03 Term. The officers of this Association shall be elected annually by the Board and each shall hold office for one (1) year or until the next annual meeting of the

Association, unless he shall sooner resign, or shall be removed, or otherwise disqualified to serve.

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

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

9.06 Vacancies. A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

9.07 Multiple Offices. The offices of secretary and treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices except in the case of special offices created pursuant to Section 9.04.

9.08 Duties. The duties of the officers are as follows:

**President**

(a) The president shall preside at all meetings of the Board of Directors; shall see that orders and resolutions of the Board are carried out; shall sign all leases, mortgages, deeds and other written instruments and may co-sign checks and promissory notes.

**Vice-President**

(b) The vice-president shall act in the place and stead of the president in the event of his absence, inability or refusal to act, may co-sign checks and promissory notes, and shall exercise and discharge such other duties as may be required of him by the Board.

**Secretary**

(c) The secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the Members; serve notice of meetings of the Board and of the Members; keep appropriate current records showing the Members of

the Association together with their addresses, and shall perform such other duties as required by the Board.

#### **Treasurer**

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

Notwithstanding the foregoing, the Board of Directors may delegate certain of the above enumerated duties of the Secretary and Treasurer to be performed by a manager, if such is engaged by the Association.

### **ARTICLE X**

#### **BOOKS AND RECORDS**

The books, records and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any Member. The Declaration, the Articles of Incorporation, and the Bylaws of the Association shall be available for inspection by any Member at the principal office of the Association, where copies may be purchased at reasonable cost.

### **ARTICLE XI**

#### **ASSESSMENTS**

As more fully provided in the Declaration, each Member is obligated to pay to the Association assessments, which are secured by a continuing lien upon the Lot against which the assessment is made. Any assessments that are not paid when due shall be delinquent. If the assessment is not paid within five (5) days after the due date, the Member shall also pay a 5% late fee equal and interest thereon at the rate of eighteen percent (18%) per annum from the due date until paid, and all costs and expenses, including attorney's fees, that may be incurred in any proceedings brought to collect such unpaid assessment(s). The Association may bring an action against the Owner who is personally liable and/or to foreclose the lien against the Lot, and interest, costs, and reasonable attorney's fees of any such action shall be added to the amount of such assessment. The Association may seek and exercise any other remedy available to it under applicable law to collect the delinquent sums. No Member may waive or otherwise



escape liability for the assessments provided for herein by nonuse of the Common Areas or abandonment of his Lot.

## ARTICLE XII

### AMENDMENTS

12.01 These Bylaws may be amended, at a regular or special meeting of the Members, by a vote of a majority of a quorum of Members present in person or by proxy.

12.02 In the case of any conflict between the Articles of Incorporation and these Bylaws, the Articles shall control; and in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control, except as to procedural matters, in which case these Bylaws shall control.

## ARTICLE XIII

### RULES; PROCEDURES FOR ENFORCEMENT

13.01 Promulgation of Rules and Regulations. The Board of Directors shall have the authority to adopt and publish rules and regulations governing:

- A. The use of the Common Areas and facilities, and the personal conduct of the Members and their guests thereon;
- B. The maintenance of Lots and Limited Common Areas; and
- C. The implementation and enforcement of other requirements, covenants, conditions and restrictions set forth in the Declaration or Bylaws.

Each Member shall be responsible for the conduct of the Member's guests, and their compliance with the rules and regulations, and shall be subject to fines or penalties for the guest's violations or infractions.

13.02 Fines and Penalties. To the fullest extent permitted by applicable Utah law, the Board of Directors shall also have the authority to establish penalties for the violation or infraction of such rules and regulations, which may include fines and/or suspension of a Member's voting rights, use of Common Areas, or other privileges granted in the Declaration. A fine may be assessed only for a violation of a rule or regulation that is specifically listed in the Declaration, the Articles of Incorporation of the Association, these Bylaws, or in the Association's rules and regulations as an offense for which a fine may be levied, and then only in any amount not in excess of the fine

specifically provided for in said provisions, which shall not exceed \$500 per single violation. Cumulative fines for a continuing violation may not exceed \$500 per month.

13.03 Notices of Violations or Infractions. The Board of Directors shall have authority to enforce the rules and regulations, to give notices and/or warnings of infractions or violations thereof, and to levy fines or other penalties. Subject to override and/or review by the Board of Directors as provided in these Bylaws and/or in the Declaration, the President of the Association shall also have authority to give notices and/or warnings of infractions or violations of the rules and regulations and to levy fines or other penalties. Furthermore, the authority to give notices and/or warnings may be delegated to a manager; provided, however, that the authority to levy fines and penalties shall remain vested in the President of the Association, subject to override and/or review by the Board of Directors.

13.04 Procedure for Assessing Fines or Other Penalties. Before assessing a fine or other penalty against a Member or Lot, the Association shall give written notice to the Member of the violation and inform the Member that a fine or other penalty will be imposed if the violation is not cured within the time provided in the Declaration, Articles of Incorporation, Bylaws, or rules and regulations, which shall be, in any event, at least forty-eight (48) hours. If the violation is not cured within the time provided, then a fine or other penalty may be assessed, subject to the Member's right to dispute or contest the same, or to request a hearing thereon, as provided in Section 13.05 below.

13.05 Procedure for Notice and Hearing. This Section shall govern the procedure to protest or dispute a fine, and for imposing a penalty of suspension of a Member's membership rights or rights to use Common Areas or facilities. To the extent that applicable Utah law provides or requires greater rights or protections to a Member with respect to these matters, the Association shall provide such greater rights or protections to the Member.

A. In the event that the Association intends to levy a penalty of suspension of membership rights or rights to use Common Areas or facilities, or any similar penalty, it shall give written notice to the Member not less than fifteen (15) days prior to the proposed effective date of the suspension or similar penalty. The written notice shall state the proposed penalty, the reasons therefore, and the date the penalty will be imposed. The notice shall also state that the Member has the right to request a hearing in accordance with these provisions, and that, in the absence of such a request, the penalty shall become effective on the date specified in the notice. If the Member desires a hearing, the Member shall make such request by written notice to the Association no later than the date specified in the notice, or if no date is specified, then no later than fifteen (15) days after the Association's notice.

B. A Member who is assessed a fine may request a hearing before the Board of Directors to protest or dispute the fine. The Member shall make such request by

written notice to the Association no later than thirty (30) days from the date written notice of the fine is given to the Member. The Association shall take no steps to collect, and no interest or late fees shall be assessed with respect to, the fine until the thirty (30) day period has expired, or, if a hearing is requested, until after the hearing has been conducted and a final decision has been rendered.

C. A Member that has requested a hearing to dispute a fine or other penalty shall be given written notice of the time, date and method of hearing. The hearing shall be held not less than five (5) days prior to the effective date of the penalty. If a Member requests a hearing, the proposed penalty shall not become effective until at least five days after a hearing has been held and the Board of Directors has issued its decision thereon. At the option of the Board of Directors, such hearing may be in person, by telephone or other electronic means, or by written submission by the Member, as may be fair and reasonable taking into consideration all of the relevant facts and circumstances, and notice of the method of hearing shall be given to the Member.

D. After consideration of the Member's statements, the Board of Directors shall have authority to confirm the proposed penalty, to rescind the penalty, or to modify the proposed penalty (but such modification shall not be larger, or more severe or lengthy than was proposed in the initial notice to the Member).

13.06 Written Notice. Written notice required by this Article shall be personally delivered to the Member, or mailed by first-class mail or certified mail to the last address of the Member as shown on the records of the Association. The notice shall be deemed given on the date personally delivered, or, if mailed, three (3) days after the date of mailing.

13.07 Collection of Unpaid Fines. Any unpaid fines, together with interest and late charges assessed thereon, shall become a lien against the Member's interests in the Lot in accordance with the provisions of Utah Code Ann. §57-8a-208, and may otherwise be collected by the Association in the same fashion as an assessment.

13.08 Suspension Does Not Affect Obligations. Suspension of a Member's membership does not waive or reduce the Member's obligations under the Declaration or these Bylaws, including the obligations to pay assessments and other amounts due thereunder.

## ARTICLE XIV

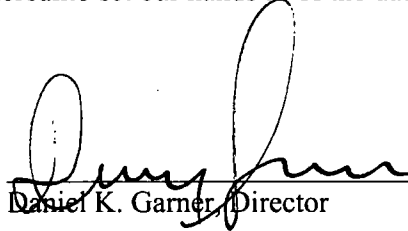
### MISCELLANEOUS

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

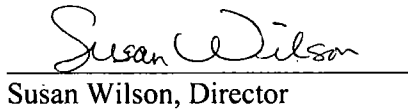
These Bylaws may be executed or approved in one or more counterparts, and signatures transmitted by fax or email shall be effective as originals.

IN WITNESS WHEREOF, we, being all of the Directors of the Aliwood Commons PUD Owners Association, have hereunto set our hands as of the dates stated below.

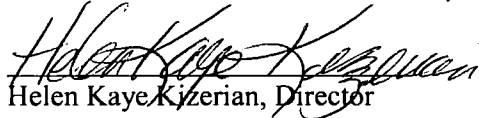
7-15-14  
Date

  
Daniel K. Garner, Director

7-15-14  
Date

  
Susan Wilson, Director

7-15-14  
Date

  
Helen Kaye Kizerian, Director

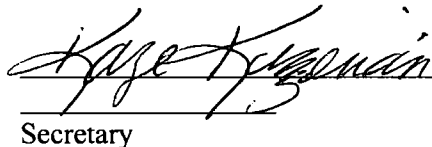
**CERTIFICATION**

I, the undersigned, do hereby certify:

THAT I am the duly elected and acting Secretary of the Aliwood Commons PUD Owners Association, a Utah nonprofit corporation, and

THAT the foregoing Bylaws constitute the Amended and Restated Bylaws of said Association, as duly adopted by the Board of Directors and the Members, as of the 15<sup>th</sup> day of July, 2014

IN WITNESS WHEREOF, I have hereunto subscribed my name this 15<sup>th</sup> day of July, 2014

  
Secretary