

WHEN RECORDED RETURN TO:
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**AMENDMENT TO MASTER
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS,
AND
RESERVATION OF EASEMENTS
FOR THE IVORY RIDGE PROPERTIES, SWIM AND TENNIS CLUB,
a part of the Ivory Ridge Planned Mixed Use Development**

This Amendment to Master Declaration of Covenants, Conditions and Restrictions, and Reservation of Easements for Ivory Ridge Properties, Swim and Tennis Club, a Utah planned, mixed use development (the "Master Declaration") is executed by Ivory Development, LLC, of 978 East Woodoak Lane, Salt Lake City, Utah 84117 (the "Developer").

RECITALS

A. The Master Declaration of Covenants, Conditions and Restrictions, and Reservation of Easements for Ivory Ridge Properties, Swim and Tennis Club, a Utah planned, mixed use development was recorded in the office of the County Recorder of Utah County, Utah on November 14, 2006 as Entry No. 152736:2006 at Pages 1-73, inclusive, of the official records (the "Declaration").

B. This document affects the real property located in Utah County, Utah, described with particularity on Exhibit "A," attached hereto and incorporated herein by this reference (the "Property").

C. All of the voting requirements to amend the Master Declaration have been satisfied.

D. The Developer has the right to amend the Master Declaration pursuant to Sections 16.2, 16.3 and 16.4 of Article XVI of the Master Declaration.

E. The Association desires to set forth the nature and incidents of ownership of the real estate and recreational amenities in the Project.

AMENDMENT

NOW, THEREFORE, for the reasons recited above, and for the benefit of the Project and the Unit Owners thereof, the Association hereby executes this Amendment to Master Declaration of Covenants, Conditions and Restrictions, and Reservation of Easements for Ivory Ridge Properties, Swim and Tennis Club, a Utah planned, mixed use development for and on behalf of and for the benefit of all of the Owners and Members of the Swim and Tennis Club.

I. DEFINITIONS

Article I of the Declaration, entitled "Definitions," is hereby amended as follows:

1.1 Section 1.7 of the Article I of the Declaration is deleted in its entirety and the following provision is substituted in lieu thereof:

1.7 The term **Club Committee** shall mean and refer to the board of directors or management committee of the Swim and Tennis Club, which shall be comprised of seven (7) representatives, consisting of four (4) representatives appointed by the Developer, one (1) representative appointed by the Preferred Members, one (1) representative appointed by the SFH Neighborhood, and one (1) representative appointed by the Townhome and Lofts Neighborhoods. Neither the number of representatives nor the composition of the Club Committee may be changed without the express prior written consent of the Developer.

1.2 Section 1.20 of Article I of the Declaration is deleted in its entirety and the following provision is substituted in lieu thereof:

1.20 The term **Corporate Member** shall mean and refer to a Person who is a duly qualified holder of a Corporate Membership in the Swim and Tennis Club.

1.3 Section 1.23 of Article I of the Declaration is deleted in its entirety and the following provision is substituted in lieu thereof:

1.23 The term **Delegate** shall mean and refer to the Voting Representative of each Voting Group of the MHOA.

1.4 Section 1.27 of the Article I of the Declaration is deleted in its entirety and the following provision is substituted in lieu thereof:

1.27 The term **Equity Member** shall mean and refer to a Person who is a duly qualified holder of an Equity Membership in the Swim and Tennis Club.

1.5 Section 1.45 of Article I of the Declaration is hereby amended to read as follows:

1.45 The term **Member** shall mean and refer to some Person belonging to an association, group, community or society.

1.6 Section 1.46 of the Article I of the Declaration is deleted in its entirety and the following provision is substituted in lieu thereof:

1.46 The term **Membership** shall mean and refer to a membership in the Swim and Tennis Club.

1.7 Section 1.53 of the Article I of the Declaration is deleted in its entirety and the following provision is substituted in lieu thereof:

1.53 The term **Preferred Member** shall mean and refer to a Person who is a duly qualified holder of a Preferred Membership in the Swim and Tennis Club.

1.8 Section 1.54 of the Article I of the Declaration is deleted in its entirety and the following provision is substituted in lieu thereof:

1.54 The term **Preferred Membership** shall mean and refer to the Membership of a duly qualified Preferred Member.

1.9 Section 1.59 of the Article I of the Declaration is deleted in its entirety and the following provision is substituted in lieu thereof:

1.59 The term **Qualified Person** shall mean and refer to any of the following Persons qualifying to own a Membership in or use the Swim and Tennis Club: (a) a residential Lot or Unit Owner; (b) a Qualified Commercial Unit Owner or its director, officer, manager, employee, insider or legal representative; (c) a Qualified Person who has purchased or is authorized to use a Preferred Membership; (d) a Qualified Person who has purchased or is authorized to use a Corporate Membership; (e) a Qualified Person who has purchased or is authorized to use a Temporary Membership; (f) the Developer or its director, officer, manager, employee, insider, legal representative or other designee of the

Developer; (g) any other Person expressly authorized by the Developer during the Period of Developer's Control.

1.10 Article I of the Declaration is hereby amended to add the following new definition:

1.75. The term **Owner** shall mean and refer to the Person who is the record owner of a fee or an undivided fee interest in a Lot or Unit according to the official records of the County Recorder of Utah County, Utah, excluding 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.

1.11 Article I of the Declaration is hereby amended to add the following new definition:

1.76 The term **Commercial Member** shall mean and refer to a Person who is a duly qualified holder of a Commercial Membership in the Swim and Tennis Club.

1.12 Article I of the Declaration is hereby amended to add the following new definition:

1.76 The term **Commercial Membership** shall mean and refer to the Membership of a duly qualified Commercial Member.

1.13 Article I of the Declaration is hereby amended to add the following new definition:

1.77 The term **Corporate Membership** shall mean and refer to the Membership of a duly qualified Corporate Member.

1.14 Article I of the Declaration is hereby amended to add the following new definition:

1.78 The term **Equity Membership** shall mean and refer to the Membership of a duly qualified Equity Member.

1.15 Article I of the Declaration is hereby amended to add the following new definition:

1.81 The term **Fitness Member** shall mean and refer to a Person who is a duly qualified holder of a Fitness Membership in the Swim and Tennis Club.

1.16 Article I of the Declaration is hereby amended to add the following new definition:

1.82 The term **Fitness Membership** shall mean and refer to the Membership of a duly qualified Non-Equity Member.

1.17 Article I of the Declaration is hereby amended to add the following new definition:

1.83 The term **Non-Equity Member** shall mean and refer to a Person who is a duly qualified holder of a Non-Equity Membership in the Swim and Tennis Club.

1.18 Article I of the Declaration is hereby amended to add the following new definition:

1.84 The term **Non-Equity Membership** shall mean and refer to the Membership of a duly qualified Non-Equity Member.

1.19 Article I of the Declaration is hereby amended to add the following definition:

1.85 The term **Qualified Commercial Unit Owner** shall mean and refer to a Commercial Unit Owner who has qualified to purchase and has purchased a Commercial Membership in the Swim and Tennis Club.

1.20 Section 1.68 of the Article I of the Declaration is deleted in its entirety and the following provision is substituted in lieu thereof:

1.68 The term **Temporary Member** shall mean and refer to a Person who is a duly qualified holder of a Temporary Membership in the Swim and Tennis Club.

1.21 Article I of the Declaration is hereby amended to add the following definition:

1.86 The term **Temporary Membership** shall mean and refer to the Membership of a duly qualified Temporary Member.

1.22 Section 1.69 of Article I of the Declaration is hereby amended to add the following definition:

1.69 The term **Total Votes of the MHOA** shall mean and refer to the number nine (9), consisting of the votes of the nine (9) Voting Representatives comprising of the Board of Delegates.

1.23 Article I of the Declaration hereby amended to add the following definition:

1.87 The term **Voting Group** shall mean and refer to each of the voting groups comprising the MHOA designated by the Developer as a "Voting Group" hereunder, the Delegate for which shall be responsible for casting the votes attributable to the Lots or Units in the Voting Group which he represents.

1.24 Article I of the Declaration hereby amended to add the following definition:

1.88 The term **Voting Representative** shall mean and refer to the Person responsible for casting the votes attributable to the Voting Group which he represents.

1.25 Any reference in the Master Declaration to a "Preferred Member" shall be to a Preferred Member.

1.26 Any reference in the Master Declaration to a "Preferred Membership" shall be to a Preferred Membership.

**II.
INCIDENTS OF OWNERSHIP**

The following Sections of Article II of the Declaration are hereby amended to read as follows:

2.2 Voting Groups in the Master Homeowners Association (the "MHOA").

2.2.1 The initial Voting Groups of the MHOA are:

- SFR Neighborhood Association;
- Townhome Neighborhood Association;
- Commercial Neighborhood Association;
- Lofts Neighborhood Association; and
- Developer

2.2.2 **Classes of Voting Groups in the MHOA.** There are two (2) classes of membership in the MHOA:

- Neighborhood Memberships; and
- Developer Memberships.

2.2.3 **Assignment of Developer's Voting Group Interest in the MHOA.** Anything to the contrary notwithstanding, the Developer may unilaterally transfer or assign its Voting Group interests in the MHOA. The Voting Group interest of a Neighborhood may not be assigned or transferred.

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2.5 **Description of Undivided Ownership Interests.** The undivided ownership interest in the Common Areas and Facilities appurtenant to each Lot or Unit in the Project shall be allocated in accordance with their square footage. The

undivided ownership interest in the Common Areas and Facilities appurtenant to each Lot or Unit shall be a fraction, the numerator of which is the square footage of the particular Lot or Unit, and the denominator of which is the total square footage of all Lot and Units in the Project. Alternatively, such fraction may be expressed as a decimal number. The undivided interest appurtenant to each Lot or Unit shall have a permanent character and shall not be altered without the express affirmative written consent of at least two-thirds of the Lots and Units. Provided, however, Developer reserves the right to unilaterally adjust the undivided ownership interest of each Unit in the Common Areas and Facilities following any withdrawal or addition of land, Lots or Units at the Project, in accordance with the formula set forth herein. The sum of the undivided interests in the Common Areas and Facilities allocated to all Lots and Units shall at all times equal one hundred percent (100%). Developer is authorized to round the undivided interest of one or more Units in order to cause the total to equal one hundred percent (100%).

2.6 Description of Limited Common Areas and Facilities.

Limited Common Areas and Facilities shall mean a portion of the Common Areas and Facilities reserved for the use of certain Owners to the exclusion of other Owners, including but not limited to any porches, decks, balconies, foyers, storage closets, hot tubs, patios, attics, and other areas as indicated by the Master Declaration or the Plat to be for the exclusive use of one or more but fewer than all of the Lots or Units. Mechanical systems or utility closets serving only the certain Lots or Units shall be Limited Common Areas and Facilities with respect to the Lots or Units which they serve. The Limited Common Areas and Facilities shall be those areas designated as such on the Plat or in this Declaration. The use and occupancy of designated Limited Common Areas and Facilities shall be reserved to the Lots or Units to which such Limited Common Areas is adjacent, unless otherwise shown on the Plat or as specified in this Declaration. Owners may not reallocate Limited Common Areas and Facilities between or among Lots or Units in which they have an interest. The undivided interest for the Residential Lots and Units shall be uniform and equal. Developer shall calculate and revise the undivided interest for each Commercial Lot or Unit in the Project based upon Size, to wit:

$$\frac{\text{Square footage of a Lot or Unit}}{\text{Total square footage of all Lots or Units}} = \text{Ownership Interest in the Common Areas and Facilities of the Project}$$

The undivided interest for each Residential Lot or Unit shall remain equal. Each Owner, by execution of a contract for deed or the acceptance of a deed to a Lot or

Unit or a Membership in the Project, shall be considered to have consented to all provisions of this Section, including the procedure for adjustment of undivided ownership interests.

2.7 Nature and Incidents of Memberships in Swim and Tennis Club.

2.7.1 Ownership. The Swim and Tennis Club shall be owned exclusively by the Ivory Ridge Homeowners Association.

2.7.2 Identification. Each Membership in the Swim and Tennis Club shall be identified by permanent reference to a letter, number or symbol or combination thereof, to identify the specific Membership. All future references to the Membership for legal description purposes shall refer to the letter, number or symbol used by the Developer in the initial conveyance of the Membership. For example, in the event the Developer designates Memberships by utilizing letters of the alphabet, individual Memberships in individual Memberships would be designated by the use of letters A, B, C etc. Once a Membership is identified by the use of a specific letter in connection with a specific Membership, the letter shall become and remain part of the permanent legal description for the Membership.

2.7.3 Permanent Character. Except as otherwise expressly provided herein, after the initial conveyance of a Membership by the Developer, the Membership shall thereafter have a permanent character and shall not thereafter be further divided by the Member.

2.7.4 Reservation of Rights. The Developer expressly reserves the unilateral right to reacquire, reassign or retire a Membership.

2.7.5 Swim and Tennis Club Rules. The Club Committee shall have the right, power and authority to adopt, amend and repeal Swim and Tennis Club Rules, Regulations, Policies and Procedures (the "S&TC Rules"). Members of the Swim and Tennis Club are entitled to the benefits of and right to use the Swim and Tennis Club subject to the S&TC Rules as they may be amended from time to time.

2.7.6 Schedules, Fees and Charges. The Club Committee may regulate times, control recreational areas and facilities, services, fees and charges at the Swim and Tennis Club. The Common Areas and Facilities, Swim and Tennis Club, Club Furnishings and certain improvements of a less significant nature may not be available for use by all Members at all times.

2.7.7 Termination Memberships. Non-Equity Memberships may be terminated, canceled or revoked at any time by the Developer or the Association upon at least thirty (30) days prior written notice. For the early termination or cancellation of a Membership the holder may be required to pay an

early termination fee, which shall be set forth on the Fee Schedule. Equity Memberships may not be terminated, although the Developer pursuant to §2.7.4 may retire a Membership.

2.7.8 Voting Rights. Non-Equity Memberships are non-voting and Non-Equity Members may not vote. The holder of a Preferred Membership shall have one (1) vote per Membership but only on matters affecting their Memberships, including for the purposes of voting on Club issues. Equity members shall have one vote based upon their percentage of ownership interest.

2.7.9 Common Expenses. All expenses related to Swim and Tennis Club shall be considered a Swim and Tennis Club Common Expense (the "S&TC Common Expense"). All S&TC Common Expenses shall be assessed by the MHOA, although the responsibility to send notice of such Assessments to the Members of the Swim and Tennis Club may be delegated by the MHOA to the Club Committee. Assessments to Owners for their share of the S&TC Common Expenses shall be based upon their percentages of ownership interest. Assessments to Members of the Swim and Tennis Club for their share of the S&TC Common Expenses shall be based upon their Membership type.

2.7.10 Club Furnishings. Club Furnishings shall include by way of illustration but not limitation the furniture, furnishings, décor, decorations, accessories, equipment and supplies installed or placed in the Swim and Tennis Club. The Developer or Club Committee may remove, replace, relocate, repair and otherwise deal with the initial and/or replacement Club Furnishings in their sole discretion.

2.8 Swim and Tennis Club - Memberships. A Membership may be held or owned by any Person and in any manner in which title to any other personal property may be held or owned in the State of Utah.

2.8.1 Creation. Memberships originally will be sold, transferred and conveyed by the Developer. A limited number of Equity and Non-Equity Memberships will be available. Some Memberships will run with the Land and others will not.

2.8.2 Classes of Memberships. Set forth below are the initial classes of Memberships in the Swim and Tennis Club. Membership types and features may be added from time to time without further notice.

- Temporary;
- Preferred;
- Commercial;
- Corporate;
- Equity;
- Junior Tennis; and

- Fitness.

2.8.2.1 Reservation of Rights. Anything to the contrary notwithstanding, the Developer expressly reserves the unilateral right to amend, modify, change, create, condition, characterize, or repeal the types of Memberships available in the Swim and Tennis Club, as Developer in its sole discretion deems necessary or desirable. Developer may but shall not be obligated to create or maintain any of the Memberships in the Swim and Tennis Club described in this Article.

2.8.2.2 Assurances. No assurances are made concerning the number, type, nature, or kind of Memberships in the Swim and Tennis Club which may be created, added, deleted or promoted.

2.8.2.3 Description of Temporary Memberships. Each Temporary Membership is an individually and privately owned license to use the Swim and Tennis Club, subject to the terms hereof and the Membership Agreement. The Temporary Memberships are licenses granted only temporarily and for a short time or period. A Temporary Membership may include a Junior Tennis Membership and/or a Fitness Membership; that is, the license to use only the fitness facilities or otherwise restricted use of the facilities at the Club. The Temporary Memberships are not permanent. The Temporary Memberships are Non-Equity. The Temporary Memberships cannot be conveyed, transferred or assigned. The Temporary Memberships do not run with the Land and are not equitable servitudes. Any attempt to convey, transfer or assign a Temporary Membership shall be considered void and just cause to terminate the Temporary Membership. Temporary Memberships may be terminated, canceled or revoked at any time upon at least thirty (30) days prior written notice.

2.8.2.4 Description of Preferred Memberships. Each Preferred Membership is an individually and privately owned license to use the Swim and Tennis Club, subject to the terms hereof and the Membership Agreement. Each Preferred Member shall be considered an Equity Member because of the permanent nature of the Membership and each Preferred Member shall have one vote per Membership on issues affecting the Swim and Tennis Club. Preferred Memberships do not run with the Land and are not equitable servitudes. Preferred Memberships may not be divided. Preferred Memberships may be transferred, conveyed and assigned, subject to the terms hereof and the Membership Agreement.

2.8.2.5 Description of Commercial Memberships. Each Commercial Membership is an individually and privately owned license to use the Swim and Tennis Club, subject to the terms hereof and the Membership Agreement. The Developer may but is under no obligation to grant a Commercial Membership to a Qualified Commercial Unit Owner. A Commercial Unit Owner who purchases a Commercial Membership shall be considered a

Qualified Commercial Unit Owner. If such a Commercial Membership is created, however, it shall not be considered an equitable servitude nor will it run with the Land, although owning a Commercial Membership is expressly conditioned upon the ownership of a Commercial Unit. Commercial Memberships are considered Non-Equity Memberships. When a Commercial Unit is sold, transferred or conveyed, any Commercial Memberships purchased by said Commercial Unit Owner will terminate and shall not be transferred to the purchaser, buyer or transferee of the Commercial Unit, and shall revert to the Developer, its successors or assigns. Any attempt to otherwise transfer, convey or assign a Commercial Membership shall be considered void. Commercial Members are entitled to use the Swim and Tennis Club, subject to the terms hereof and the Membership Agreement.

2.8.2.6 Description of Corporate Memberships. Each Corporate Membership is an individually and privately owned license to use the Swim and Tennis Club, subject to the terms hereof and the Membership Agreement. Corporate Membership is limited to the Developer and its present and former officers, directors, partners, members, shareholders, employees, agents, representatives, predecessors-in-interest, successors-in-interest, parent and affiliated companies, insurers, accountants, attorneys, and other third parties. Corporate Memberships are Non-Equity Memberships. Corporate Memberships do not run with the land and are not equitable servitudes. Corporate Memberships may not be divided; provided, however, the Developer reserves to itself and may assign a Corporate Membership, in whole or in part, on a short-term or long-term basis, and for a monthly fee. For example, the assignment of a Corporate Membership may include the right to use the Club facilities, excluding social events at the Club. The Developer may use Corporate Memberships and the assignment of Corporate Memberships for promotional purposes. Corporate Memberships may be transferred, conveyed and assigned, subject to the terms hereof and the Membership Agreement.

2.8.2.7 Description of Equity Memberships. The Developer desires to create within the Project residential Lots or Units, which will be privately owned with an appurtenant undivided ownership interest in the Common Areas and Facilities coupled with an Equity Membership, which is a license to use the Swim and Tennis Club. Each Equity Membership is an equitable servitude and runs with the Land. Equity Memberships are appurtenant to a particular residential Lot or Unit and may not be partitioned therefrom. Any attempt to partition an Equity Membership from the Lot or Unit to which it is appurtenant or to divide such Membership shall be considered void. Equity Members are entitled to use the Swim and Tennis Club, subject to the terms hereof and the Membership Agreement.

2.8.3 Nature and Incidents of Memberships in Swim and Tennis Club.

2.8.3.1 Identification. Each Membership shall be identified by permanent reference to a letter, number or symbol or combination thereof, to identify the specific Membership. For example, in the event the Developer designates Memberships by utilizing letters of the alphabet, individual Memberships in individual Memberships would be designated by the use of letters A, B, C etc. Once a Membership is identified by the use of a specific letter in connection with a specific Membership, the letter shall become and remain part of the permanent legal description for the Membership. The letter "E" shall represent an Equity Membership. The letters "NE" shall represent a Non-Equity Membership.

2.8.3.2 Ownership. A Membership may be held or owned by any Person and in any manner in which title to any other personal property may be held or owned in the State of Utah.

2.8.3.3 Divisions of Memberships Prohibited. A Membership may not be divided and fractional ownership is prohibited. This subsection does not apply to the Developer.

2.8.3.4 Encumbrances. Each Member shall have the right to encumber his Membership; provided, however, no Member shall attempt to or shall have the right to encumber the Swim and Tennis Club or any part thereof. .

2.8.3.5 Permanent Character of Equity Memberships. Subject to the rights of Developer set forth in Section 2.8.4.1 above, after the initial conveyance of an Equity Membership by the Developer to an Owner, the Equity Membership shall thereafter have a permanent character and shall not thereafter be further divided by the Owner thereof.

2.8.3.6 Permanent Character of Non-Equity Memberships. Except as otherwise expressly provided herein, after the initial conveyance of a Non-Equity Membership by the Developer, the Non-Equity Membership shall have a permanent character and shall not thereafter be further divided by the holder.

2.8.3.7 Fractional Ownership Interests. Subject to the rights of Developer to create fractional Non-Equity Memberships, after the initial conveyance of a Non-Equity Membership by the Developer, fractional ownership of the Non-Equity Membership is not permitted.

2.8.3.8 Restrictions. Memberships are subject to the Project Documents and the Swim and Tennis Club Rules, Policies and Procedures as they may be amended from time to time (collectively "S&TC Rules").

2.8.3.9 **Reversions.** If a Membership reverts to the Developer or if the Developer subsequently acquires a Membership, then the Developer may elect to reassign or retire the Membership as it deems necessary or appropriate.

2.8.3.10 **Beneficial Interest.** All Members are entitled to the benefits of the Swim and Tennis Club.

2.8.3.11 **Management.** Use of Memberships shall be subject to the management of the Club Committee, including the scheduling of the use of the recreational amenities and facilities.

2.8.3.12 **Dues, User Fees and Other Charges.** Members may be required to pay dues, user fees and other charges. The Developer is not required to pay any such dues, user fees or other charges.

2.8.3.13 **Club Furnishings.** The Common Areas and Facilities, Swim and Tennis Club and certain of the Club Furnishings may or may not be available for use by all Members at all times. Club Furnishings, including by way of illustration but not limitation the furniture, furnishings, décor, decorations, accessories, equipment and supplies placed in the Swim and Tennis Club initially by the Developer and subsequently by the Club Committee shall constitute Limited Common Area and Facilities appurtenant to Memberships for the use of Members and Guests pursuant to and in accordance with the Swim and Tennis Club Rules, Policies and Procedures. The Developer or Club Committee may remove, replace, relocate, repair and otherwise deal with the Club Furnishings as they deem it necessary, expedient and appropriate in the operation and administration of the Swim and Tennis Club.

2.8.3.14 **Common Expenses.** The expenses related to the maintenance, operation and management of the Swim and Tennis Club and Club Furnishings shall constitute a Common Expense to be levied against Owners and Members by the MHOA.

2.8.3.15 **Allocation of Common Expenses.** The Common Expenses incurred by the Swim and Tennis Club shall be allocated and assessed to Members by the Club Committee based upon each type of Membership. The Developer is not required to pay any such allocations or assessments.

2.8.3.16 **Transfers.**

2.8.3.16.1 **Entire Membership.** A Membership may only be transferred in its entirety. This includes every gift, devise, bequest, transfer, encumbrance, conveyance or other disposition of a Membership.

2.8.3.16.2 **Transfer Fee.** For each Member's sale, transfer or conveyance of his Membership (excluding the initial sale, transfer or conveyance of a Membership by the Developer), the Club Committee may charge a reasonable transfer fee. All such transfer fees shall be paid directly to the Club Committee. The Developer is not required to pay any such transfer fees.

2.8.3.17 **Security.** If any Members fails or refuses to make any payment of any dues, fees, charges or his portion of the Common Expenses when due, that amount shall constitute a lien on the interest of said Member prior to all other liens and encumbrances except: (1) tax and special assessment liens on the Membership in favor of any assessing unit or special improvement district; and (2) encumbrances on the interest of the Member perfected prior to the date the dues, fees, charges or his share of the Common Expenses was due.

2.8.3.17 **Individual Re-Sale of Preferred Memberships.** No Preferred Membership may be re-sold, transferred or conveyed in competition with the Developer until such time as the Developer has sold, transferred or conveyed ALL of its Preferred Memberships.

2.8.3.19 **Cancellation.** The Club may charge a reasonable cancellation fee.

2.8.3.20 **Guest Passes.** The Club may but is not obligated to issue free Guest passes to Members.

2.8.3.21 **Voting.** The type of Membership interest in the Swim and Tennis Club determines voting rights. All Non-Equity Memberships are non-voting.

2.8.3.22 **Conflict Between Project Documents and Membership Agreement.** In the event of any conflict, incongruity or inconsistency between the provisions of this Master Declaration, as it may be amended from time to time, and the Membership Agreement, the former shall in all respects govern and control. In the event of any conflict, incongruity or inconsistency between the provisions of this Amendment and the original Declaration regarding Transfer Fees, the former shall in all respects govern and control.

2.8.3.23 **Amendment.** Section 2.8 may not be modified without the Developer's express prior written consent in a recordable instrument.

2.9 Activity Cards.

2.9.1 **Right to Use Amenities Subject to Valid Activity Card.** Access to and use of the Swim and Tennis Club shall be subject to the presentation of a valid Activity Card issued by the Club Committee.

2.9.2 Issuance by the Club Committee. The Club Committee shall determine the number of Activity Cards allocated to each Qualified Person and the maximum number of Activity Cards which may be allocated per Lot or Unit or Membership.

2.9.3 Qualification. No Activity Cards shall be allocated to:

2.9.3.1 Any Lot or Unit which is not occupied by a Qualified Person; or

2.9.3.2 Any Person who is not a Qualified Person.

2.9.4 Determination of Qualified Persons, Lots and Units. The Club Committee shall determine entitlement to Activity Cards on an annual basis.

2.9.5 Renewal of Activity Cards. If a Person remains a Qualified Person and all Membership fees, dues and user fees pertaining to the Membership have been paid in full, and the Person is not otherwise in default, then the Activity Card or Cards allocated to such Qualified Person shall be renewed annually without additional application.

2.9.6 Rules and Regulations. The Club Committee may establish rules, regulations, policies, procedures, conditions, restrictions, limitations, dues, user fees and charges with regard to the Activity Cards and the issuance of Guest privileges.

2.9.7 Prospective Buyers. Activity Cards may be issued to Persons who have signed binding contracts to purchase a Lot, Unit or Membership, subject to such policies as the Club Committee may determine from time to time, and to Persons entitled to receive Activity Cards pursuant to a Private Amenity, Covenant to Share Costs or other agreement.

2.9.8 Assignment of Rights. Except as may otherwise be expressly provided herein, the right to an Activity Card is based upon a Membership in good standing. If, and so long as, a Lot or Unit is occupied solely by Persons other than the Owner, pursuant to a lease or other agreement in which the right to use the Swim and Tennis Club have been transferred to the tenant, then (1) the Owner shall not be entitled to receive an Activity Card, and (2) the right of any occupant to receive an Activity Card shall depend on his or her status as a Qualified Person. Any Owner who leases or otherwise transfers occupancy of his Lot and the right to use the Swim and Tennis Club shall provide the Association with immediate written notice thereof and shall surrender to the Association his previously issued Activity Cards. Activity Cards shall be surrendered by any holder who ceases to be a Qualified Person, or at any time

upon written notification from the Club Committee that the holder no longer is entitled to hold an Activity Card.

2.9.9 Issuance to the Developer. As long as the Developer owns any of the Property or Memberships, the MHOA shall provide the Developer, free of charge, with as many temporary Activity Cards as the Developer, in its sole discretion, deems necessary for the purpose of marketing the Memberships, Lots and Units. The Developer may transfer the Activity Cards to such prospective purchasers subject to such terms and conditions as it, in its sole discretion, may determine. Activity Cards provided to the Developer shall entitle the bearer to use the Tennis and Swim Club, all recreational facilities, and other Common Areas and Facilities, subject to the payment of dues, user fees and other charges charged to Qualified Persons holding Activity Cards.

2.10 Developmental Rights. The following Developmental Rights are hereby granted or reserved by Developer:

2.10.1 Easement. Developer hereby reserves an easement throughout the Project for a period twenty (20) years from the recording of this Declaration for the purpose of completing all improvements contemplated by the Master Declaration and the Plat, including but not limited to improvements to any land annexed.

2.10.2 Improvements. Developer hereby reserves the right, but is not obligated to construct any improvements shown on the Plat; and any other buildings, structures or improvements that Developer desires to construct on the Property, or any other real estate owned by Developer, regardless of whether the same ever become part of the Project.

2.10.3 Sales Offices. Developer hereby reserves the right to maintain sales offices, management offices, signs advertising the Project and models in any of the Property which it owns or leases or on the Common Areas and Facilities of the Project for so long as Developer is an Owner within the Project. All signage shall comply with county regulations, as the same may be changed from time to time. Developer shall be entitled to utilize, at any one time, any number of Lots or Units which it owns or leases and some or all of the Common Areas and Facilities as sales offices, management offices, and models anywhere in the Project. Developer may relocate sales offices, management offices and models to other Units or Common Areas and Facilities at any time. Notwithstanding an Owner's right to resell his Lot, Unit and/or Membership and list such Lot, Unit and/or Membership with any firm or agency as he shall determine, no person or entity other than Developer and/or its duly appointed affiliates, successors, agents or assigns, shall have the right to market or initially sell Lots, Units and/or Memberships within the Project.

2.10.4 **Membership Types.** Developer reserves the right to create, establish, modify, condition, restrict, characterize, retire and withdraw Memberships of every kind, and to modify the features of any particular Membership.

2.10.5 **Marketing.** Developer hereby reserves and is hereby granted the right to unilaterally market Equity Memberships and Non-Equity Memberships to third parties, upon such terms and conditions as the Developer, in its sole discretion, may deem advisable.

2.10.6 **Changes.** Notwithstanding anything to the contrary contained in this Master Declaration, Developer may unilaterally, in its sole discretion make such alterations, changes or modifications to any property, Lot, Unit or Membership owned by it or the adjacent Common Areas and Facilities, as Developer deems necessary or appropriate including but not limited to the creation or removal of interior walls and modifications to plumbing and electrical systems.

2.10.7 **Names.** During the Period of Developer's Control, Developer hereby reserves the right to unilaterally change the name of the Project, Lot or Unit type, a Neighborhood, the Swim and Tennis Club or any Membership.

2.10.8 **Promotions.** The Developer reserves to itself the right to create promotions for the sale and marketing of Memberships, including by way of illustration but not limitation the right to alter the number, type, nature, features or kinds of Memberships available.

2.10.9 **Transfer and Impact Fees.** Developer reserves the right to collect all Transfer and Impact fees to which it is entitled.

2.10.10 **Interference.** Neither the MHOA, Neighborhood Association, Board of Delegates, the Club Committee, nor any Owner or Member may take any action or adopt any rule or regulation that interferes or diminishes any Developmental Rights hereunder, without Developer's express prior written consent, and any action taken in violation of this Section shall be null and void and have no force or effect.

2.10.11 **Amendment.** Section 2.10 may not be modified without the Developer's express prior written consent in a recordable instrument.

2.11 **Area of Application.** This Declaration shall apply to all of the Tract.

2.12 **Right to Expand Application, Withdraw Land, Reconfigure Structure, or Change the Nature of the Use.** Without any other additional

approval required, the Developer is hereby granted and shall have the unilateral right to:

2.12.1 **Expansion.** Expand the application of this Declaration in order to annex additional land, Common Area and Facilities, Units, Lots and/or Memberships;

2.12.2 **Additions.** Add additional Neighborhoods, additional Delegates, including by way of illustration but not limitation Common Areas and Facilities, Units and/or Memberships; and

2.12.3 **Withdrawals.** Withdraw land from this Master Declaration.

2.12.4 **Percentages of Ownership.** Adjust percentages of ownership interest based upon additional Units and/or Lots, or the withdrawal of land.

2.12.5 **Supplements.** A written supplement to this Declaration duly recorded shall be necessary and sufficient to expand the application of this Master Declaration.

2.12.6 **Charges, Dues and Fees.** The MHOA may assess Members and Memberships transfer or impact fees, dues, user fees and other charges. The Developer is not required to pay any such charges, dues and/or fees.

2.12.7 **Management Hierarchy.** The management and administration of the Swim and Tennis Club shall adhere to the following order and in the event of any conflict, inconsistency or incongruity, the decision of the Board of Delegates shall be final, conclusive and binding.

- Board of Delegates
- Club Committee
- Club Pro(s)
- Subcontractors, consultants and service providers
- Suppliers
- Others

2.12.8 **Bylaws.** The Bylaws of the Association are attached hereto, marked Exhibit "B," and incorporated herein by this reference.

III. AMENDMENTS

A. – Article XVI

Article XVI of the Declaration is hereby deleted in its entirety and the following is substituted in lieu thereof.

16.1 **General.** Except as provided elsewhere in this Master Declaration, including by way of illustration but not limitation to sections pertaining to the annexation or withdrawal of land, any amendment to this Master Declaration shall require the affirmative written vote or consent of at least sixty-seven percent (67%) of the Total Votes of the MHOA cast either in person or by proxy at a meeting duly called for such purpose or otherwise approved in writing by such Owners without a meeting. Any Amendment authorized pursuant to this Section shall be accomplished through the recordation in the Office of the County Recorder of an instrument executed by the MHOA. In such instrument an officer or delegate of the MHOA shall certify that the vote required by this Section for Amendment has occurred.

16.2 **Initial Developer Right to Amend.** The Developer alone may amend or terminate this Master Declaration prior to the closing of a sale of the first Lot or Unit.

16.3 **Unilateral Right to Amend Under Certain Conditions.** Anything to the contrary notwithstanding, this Master Declaration may be amended unilaterally at any time and from time to time by Developer if such Amendment is (i) necessary to correct typographical errors or inadvertent omissions; (ii) necessary to bring any provision hereof into compliance with any applicable governmental statute, rule, or regulation or judicial determination which shall be in conflict therewith; or (iii) reasonably necessary to enable any reputable title insurance company to issue title insurance coverage with respect to the Lots or Units subject to this Master Declaration; provided, however, any such Amendment shall not materially adversely affect the title to any such Lot or Unit, unless any such Owner shall consent thereto in writing.

16.4 **Developer's Right to Amend Unilaterally Prior to Termination of Developer's Right to Control.** Prior to the expiration of the Period of Developer's Control, Developer may unilaterally amend this Master Declaration for any other purpose; provided, however, any such Amendment shall not materially adversely affect the substantive rights of any Owner or Membership in the Swim and Tennis Club, nor shall it adversely affect title to any property without the consent of the affected Owner.

16.5 **To Satisfy Requirements of Lenders.** Anything to the contrary notwithstanding, Developer reserves the unilateral right to amend all or any part of this Master Declaration to such extent and with

such language as may be requested by a State Department of Real Estate (or similar agency), FHA, VA, the FHLMC or FNMA and to further amend to the extent requested by any other federal, state or local governmental agency which requests such an amendment as a condition precedent to such agency's approval of this Master Declaration or approval of the sale of Lots or Units, or by any federally chartered lending institution as a condition precedent to lending funds upon the security of any Lot or Unit, or any portions thereof. Any such amendment shall be effected by the recordation by Developer of an Amendment duly signed by the Developer, specifying the federal, state or local governmental agency or the federally chartered lending institution requesting the amendment and setting forth the amendatory language requested by such agency or institution. Recordation of such an Amendment shall be deemed conclusive proof of the agency's or institution's request for such an amendment, and such Amendment, when recorded, shall be binding upon all Lots or Units and all persons having an interest therein. It is the desire of Developer to retain control of the MHOA and its activities during the anticipated period of planning and development. If any amendment requested pursuant to the provisions of hereof deletes, diminishes or alters such control in any manner whatsoever in the opinion of Developer, Developer shall have the unilateral right to amend this Master Declaration to restore such control.

16.6 Developer's Rights. No provision of this Master Declaration reserving or granting to Developer the Developmental Rights shall be amended without the prior express written consent of Developer, which consent may be withheld, conditioned or delayed for any reason or for no reason at Developer's sole and exclusive discretion.

16.7 Swim and Tennis Club. No provision of this Master Declaration affecting the Swim and Tennis Club or the Club Committee (other than an amendment adopted by the Developer during the Period of Developer's Control, shall be amended without the express written consent of the Club Committee.

B. – Article XI

Article XI, Section 12 of the Master Declaration is hereby amended to add the following new Subsection:

11.12.58 Payment. All Assessments and Additional Charges will automatically be billed monthly to the Member and must be paid by the 10th of the month in which they were due. The Board of Delegates may require a credit card or debit card for payment. If so, each Owner shall provide the Master Association with a valid credit card or debit card number. Charges will be posted to the Owner's credit card or debit

account by the 10th of the following month. Statements detailing Assessments and Additional Charges will be provided at the beginning of every month. Each Owner shall keep his credit card and/or debit card current, and immediately notify the Board of any changes. Each Owner by virtue of his acceptance of a deed or other document of conveyance hereby authorizes and directs the Association to charge his or her credit card or debit account as indicated above for all balances outstanding on a regular monthly billing schedule.

C. – New Section

The following Section is hereby added to the Declaration. What Article

18. **Transfer Fee - Sale of Lots and Units.** On the initial sale of a Lot or Unit the Developer shall collect a \$500.00 Transfer Fee which shall be divided as follows: \$300.00 to operations and \$200.00 into a capital asset reserve account. For each Owner's subsequent sale, transfer or conveyance of his Lot or Unit, the Master Association may charge a reasonable Transfer Fee. The initial Transfer Fee, which is subject to change upon thirty (30) days prior written notice, shall be \$500.00. All such Transfer Fees shall be paid directly to the Board of Delegates.

IV. CONFLICTS

In the event of any conflict, inconsistency or incongruity between the provisions of this Amendment and the provisions of the Master Declaration, the former shall in all respects govern and control.

V. INCORPORATION

It is expressly agreed that this amendment is supplemental to the Master Declaration, which is by reference made a part hereof, and all the terms, conditions, and provisions thereof, unless specifically modified herein, continue to apply and are made a part hereof as though they were expressly rewritten, incorporated and included herein.

VI. WATER WISE LANDSCAPING

Each Owner agrees by acceptance of a deed or other document of conveyance to follow the Ivory Homes Water Wise Landscaping policies¹, the proto-type for which is attached hereto market Exhibit "C," and incorporated herein by this reference.

¹ subject to change

EXHIBIT "A"
LEGAL DESCRIPTION

The land referred to in the foregoing document is located in Utah County, Utah and is described more particularly as follows:

All of Units 1 through 66, inclusive, contained within CLUBVIEW TOWNS AT IVORY RIDGE, PLAT "A", a planned community development, as the same is identified in the Plat Map recorded in Utah County, Utah as Entry No. 98464:2006 of the Official Records of the County Recorder of Utah County.

Parcel No. 65-211-0001 through 65-211-0066

All of Units 67 through 110, inclusive, contained within CLUBVIEW TOWNS AT IVORY RIDGE, PLAT "B", a planned community development, as the same is identified in the Plat Map recorded in Utah County, Utah as Entry No. 56815:2007 of the Official Records of the County Recorder of Utah County.

Parcel No. 65-255-0067 through 65-255-0110

All of Lots 101 through 152, inclusive, contained within CLUBVIEW AT IVORY RIDGE, PLAT "A", a planned community, as the same is identified in the Plat Map recorded in Utah County, Utah as Entry No. 77758:2006 of the official records of the County Recorder of Utah County.

Parcel No. 65-200-0101 through 65-200-0152

All of Lots 201 through 241, inclusive, contained within CLUBVIEW AT IVORY RIDGE, PLAT "B", a planned community, as the same is identified in the Plat Map recorded in Utah County, Utah as Entry No. 56815:2007 of the official records of the County Recorder of Utah County.

Parcel No. 65-250-0201 through 65-250-0241

All of Units 1 through 50, inclusive, contained within THE WALK AT IVORY RIDGE, PLAT "A", a planned community, as the same is identified in the Plat Map recorded in Utah County, Utah as Entry No. 51791:2007 of the Official Records of the County Recorder of Utah County.

Parcel No. 55-689-0001 through 55-689-0050

