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Mountain View Title

When Recorded Mail To:
Paul A. Price, Esq.
1372 E. Yale Ave.
Salt Lake City, Utah 84103

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DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR PHASES 4, 5 AND 6 OF RIDGEMONT,
A PLANNED RESIDENTIAL UNIT DEVELOPMENT

This Declaration is made and executed this 28th day of June, 1988, by OPHEIKENS AND COMPANY, INC., a Utah corporation ("Declarant.")

RECITALS

A. Declarant is the owner of that certain real property located in the City of Washington Terrace, County of Weber, State of Utah, and more particularly described in the Exhibit "A" attached to and made a part of this Declaration (which, together with each and every portion of the Additional Land defined hereinafter, from and after the time such portions are added thereto and subjected to this Declaration, is hereinafter referred to as the "Property.")

B. Various improvements have been or will be made to the Property described in the attached Exhibit "A" so as to enable its use as a planned residential unit development containing certain Lots and Common Areas. Declarant desires to provide for the preservation of the values and amenities in said development and for maintenance of the Common Areas. To this end and for the benefit of the Property and the Owners thereof, Declarant desires to (i) subject the Property to the covenants, conditions, restrictions, easements, charges, and liens hereinafter set forth, and (ii) provide for expansion of the development through the annexation of portions of the Additional Land.

C. Declarant has caused RIDGEMONT 456, a nonprofit corporation, to be organized under the laws of the State of Utah for the purpose, among other purposes, of exercising all of the powers and privileges and performing all of the duties and obligations of the owners association described hereinafter.

D. In furtherance of these intents, Declarant hereby declares that all of the Property is and shall continue to be held, conveyed, hypothecated, encumbered, leased, rented, used,

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occupied, and improved subject to the declarations, limitations, covenants, conditions, restrictions, reservations, rights and easements set forth in this Declaration, as this Declaration may be amended from time to time, all of which are declared and agreed to be in furtherance of a plan established for the purpose of enhancing and perfecting the value, desirability and attractiveness of the Property. All provisions of this Declaration shall constitute covenants running with the land and enforceable equitable servitudes upon the Property, and shall be binding on and for the benefit of all of the Property, and all parties having or acquiring any right, title or interest in all or any part of the Property, including the heirs, executors, administrators and assigns of such parties and all subsequent owners and lessees of all or any interest in a Lot (as hereinafter defined.)

I. DEFINITIONS

For purposes of this Declaration, the following terms shall have the meanings indicated:

- 1. Additional Land shall mean and refer to the real property located in Weber County, Utah and described in the Exhibit "B" attached hereto and incorporated herein by reference.
- 2. Articles shall mean and refer to the articles of incorporation of RIDGEMONT 456, a nonprofit corporation organized under the laws of the State of Utah, and any amendments thereto that are or shall be filed in the Office of the Utah Department of Business Regulation. A true copy of the Articles in effect as of the date of this Declaration is attached hereto as Exhibit "C" and incorporated herein by reference.
- 3. Association shall mean and refer to RIDGEMONT 456, a Utah nonprofit corporation.
- 4. Board shall mean and refer to the board of trustees of the Association.
- 5. Bylaws shall mean and refer to the bylaws of the Association and amendments thereto that are or shall be adopted by the Board. A true copy of the Bylaws in effect as of the date of this Declaration is attached hereto as Exhibit "D" and incorporated herein by reference.
- 6. Common Areas shall mean and refer to all portions of the Property owned by the Association for the common use and enjoyment of the Owners, and shall include:
 - (a) All portions of the Property not specifically included within the individual Lots;

(b) All Common Areas designated as such on the Plat (or on any Plat recorded in connection with any Supplemental Declaration recorded pursuant to the annexation provisions of Article XI of this Declaration), either as "common area" or "CA"; and

(c) All installations, equipment, and lines which serve more than one Lot, if any, now or hereafter located on, over, or under the Common Areas and/or the Property.

7. Declarant shall mean and refer to OPHEIKENS AND COMPANY, INC., a Utah corporation, and its successors and assigns.

8. Declaration shall mean and refer to this Declaration Of Covenants, Conditions And Restrictions For Phases 4, 5 and 6 of Ridgmont, A Planned Residential Unit Development, as the same may hereafter be modified, amended, supplemented or expanded in accordance with law and the provisions hereof (particularly the provisions of Article XI hereof concerning supplements to this Declaration which are to be executed and recorded in connection with the annexation of portions of the Additional Land to the Property.)

9. Development shall mean and refer to the Property, any additional real property annexed to the Property pursuant to Article XI of this Declaration, and all improvements which have been or will be constructed thereon.

10. Exclusive Use Common Area shall mean and refer to those portions of the Common Areas reserved for the exclusive use of one or more of the Owners pursuant to Section 4 of Article II of this Declaration.

11. Governing Instruments shall mean and refer to this Declaration, the Articles and Bylaws of the Association, and any Rules and Regulations of the Development.

12. Lot shall mean and refer to any parcel in the Development that is not a part of the Common Areas, as shown on any recorded Plat. The Plat to be recorded concurrently with this Declaration contains fourteen (14) such lots.

13. Living Unit shall mean and refer to the improvements comprising a residential dwelling located within the boundaries of any Lot, including any garage.

14. Manmade Landscaping shall mean and refer to all lawns, trees, shrubbery, sprinkling systems, sidewalks, rear walks, front walks, driveways and all imperious surfaces (except a Living Unit) provided or installed in the Development by Declarant.

15. Manager shall mean and refer to any Person (as hereinafter defined) appointed by the Board to manage the Development.

16. Member shall mean and refer to every Person (as hereinafter defined) entitled to membership in the Association, as provided in this Declaration.

17. Mortgage shall mean and refer to a Mortgage or deed of trust encumbering a Lot or any other portion of the Development. "First Mortgage" shall mean and refer to a Mortgage that has priority over all other Mortgages encumbering the same Lot or other portions of the Development.

18. Mortgagees shall mean and refer to a Person (as hereinafter defined) to whom a Mortgage is made and includes the beneficiary of a deed of trust and any guarantor or insurer of a mortgage. "Institutional Mortgagees" shall mean and refer to a mortgagee that is a financial intermediary or depository such as a bank, savings and loan, or mortgage company that is chartered under federal or state law and that lends money on the security of real property or invests in such loans, or any insurance company or governmental agency or instrumentality, including the Federal National Mortgage Corporation (FNMA), the Federal Home Loan Mortgage Corporation (FHLMC) and the Government National Mortgage Association (GNMA). "First Mortgagee" shall mean and refer to a Mortgagee that has priority over all other Mortgagees or holders of Mortgages encumbering the same Lot or other portions of the Development. The term "Beneficiary" shall be synonymous with the term "Mortgagee."

19. Mortgagor shall mean and refer to a Person (as hereinafter defined) who mortgages his, her, or its property to another and shall include the trustor of a deed of trust. The term "Trustor" shall be synonymous with the term "Mortgagor."

20. Owner shall mean and refer to the record holder or holders of record fee title to a Lot, including the Declarant hereunder, and any contract sellers under recorded contracts of sale. "Owner" shall not include any Persons (as hereinafter defined) who hold an interest in a Lot merely as security for performance of an obligation.

21. Party Wall shall mean and refer to any load-bearing partition erected as part of the original construction of a Living Unit (or reconstructed following any partial or complete destruction of the Living Unit from any cause whatsoever) along an outside boundary of the Lot associated with such Living Unit, which partition is common to, supports, and comprises an integral part of an adjoining Living Unit constructed on a separate Lot. For purposes of Section 1 of Article VI, "Party Wall" shall also include any fence erected as part of the original construction of a Living Unit that is common to an adjoining Lot.

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22. Person shall mean and refer to a natural individual, a corporation, or any other entity with the legal right to hold title to real property.

23. Map shall mean and refer to each of the following duly approved, filed and recorded record of survey maps:

(a) The record of survey map filed and recorded concurrently herewith, entitled "RIDGEMONT. A PLANNED RESIDENTIAL UNIT DEVELOPMENT PHASE 4", executed and acknowledged by Declarant, prepared and certified by Jay R. Anderson, a duly registered Utah Land Surveyor holding Certificate No. 2430, and consisting of one (1) sheet; and

(b) Any record of survey map(s) recorded in connection with the annexation of all or any portion of the Additional Land to the Development pursuant to Article XI of this Declaration.

24. Property shall mean and refer to the real property described in the Recitals and in any supplemental declaration recorded pursuant to Article XI of this Declaration.

25. Rules and Regulations shall mean and refer to any written rules regulating the use of the Common Areas that may from time to time be adopted by the Association pursuant to Section 6(b) of Article III of this Declaration.

II. THE PROPERTY

1. Development Subject to Declaration. The entire Development shall be subject to this Declaration.

2. Annexation of Additional Property. Portions of the Additional Land may be annexed to the Property, but only as provided in Article XI of this Declaration.

3. Common Areas. The following provisions shall govern the use and enjoyment of the Common Areas:

a. The Association shall have an easement in, to and throughout the Common Areas and its improvements to perform its duties and exercise its powers.

b. Except as provided in this Declaration, there shall be no judicial partition of the Common Areas, nor shall Declarant or any Person acquiring an interest in all or any part of the Development seek any judicial partition.

c. Subject to the provisions of this Declaration, each Owner has nonexclusive rights of ingress, egress and support throughout the Common Areas. These rights shall be

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appurtenant to and shall pass with title to every Lot. However, these rights shall not interfere with, and shall be subordinate to, any exclusive right to use an Exclusive Use Common Area.

d. The Members' rights of use and enjoyment of the Common Areas shall be subject to the restrictions set forth in the Governing Instruments, including the following:

(1) The right of the Association to adopt and enforce Rules and Regulations for the use of the Common Areas;

(2) The right of the Association to reasonably limit the number of guests and tenants using the Common Areas;

(3) The right of the Association to assign or otherwise control the use of parking spaces located within the Common Areas, whether designated as such on the Plat or otherwise;

(4) The right of the Association to cause the construction of additional improvements in the Common Areas or to cause the alteration or removal of existing improvements on the Common Areas;

(5) The right of the Association to grant, consent to, or join in the grant or conveyance of easements, licenses, or rights-of-way in, on, under or over the Common Areas;

(6) The right of each Owner to the exclusive use of the Exclusive Use Common Area appurtenant to the Owner's Lot;

(7) The rights of Declarant as described in this Declaration;

(8) The right of the Association to reasonably restrict access to roofs, maintenance facilities or areas, landscaped areas, and similar areas of the Development; and

(9) The right of the Architectural Control Committee to approve any proposed alteration or modification to the Common Areas, any improvements now or hereafter located thereon, or any Lot.

e. Declarant hereby reserves unto itself easements for common driveway purposes, for drainage and encroachment purposes, and for ingress to and egress from the Common Areas. These easements may be used to complete improvements on the Common Areas, on any Lot, to perform

any necessary repair work, and for entry onto adjacent property in connection with the development of additional phases of the Development. These easements shall remain in effect for seven (7) years from the date of closing of the first sale of a Lot in the Development.

f. The Association may grant to third parties easements in, on and over the Common Areas for the purpose of constructing, installing or maintaining necessary utilities and services, and each Owner, in accepting his, her or its deed to a Lot, expressly consents to these easements, whether existing on the date of such acceptance or granted thereafter; provided, however, that no such easement shall be granted that would unreasonably interfere with any exclusive easement or with any Owner's use, occupancy or enjoyment of a Lot or with any Exclusive Use Common Area appurtenant to such Owner's Lot.

g. Each Owner shall be liable to the Association for any damage to the Common Areas or to any property owned by the Association, to the extent that the damage is not covered by insurance, if the damage is sustained because of the negligence, willful misconduct, or unauthorized or improper installation of any improvement by the Owner or the Owner's family, guests, tenants, contract purchasers or invitees. In the case of joint ownership of a Lot, the liability of the co-owners shall be joint and several, unless the co-owners and the Association have agreed in writing to an alternative allocation of liability.

4. Exclusive Use Common Areas. Those portions of the Common Areas described below are or shall be for the exclusive use of certain Owners of Lots and shall be appurtenant to those Lots. Exclusive Use Common Areas appurtenant to any Lot may not be transferred independently of any other interest of the Owner. Additional Exclusive Use Common Areas may be designated in the future by the Association, provided that the designation is not inconsistent with the rights of any Owner.

a. Each Owner shall have the exclusive right to use, for any reasonable purpose not inconsistent with the Governing Instruments, any paved driveway area that is designed and constructed to provide immediate vehicular access to the garage structure located on such Owner's Lot. The Owner shall be responsible for keeping such area in a clean and unobstructed condition; provided, however, that the Association shall be responsible for maintaining any structural components of the area.

5. Maintenance By Owners. Each Owner shall maintain the Owner's Living Unit, including the equipment and fixtures in the Living Unit and the interior surfaces of the walls and the ceilings, floors, windows and doors in a clean, sanitary and

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attractive condition. This maintenance shall be done at the Owner's expense. However, the Owner shall not take any actions that would alter the original design and color scheme of a Living Unit, impair or otherwise alter the structural integrity or mechanical systems of a Living Unit, or lessen the support of a Living Unit, without the prior written approval of the Architectural Control Committee (as hereinafter defined) as provided in Article VI of this Declaration.

6. Presumption Regarding Boundaries of Units. In interpreting deeds, declarations and Plats, the existing physical boundaries of a Living Unit, including any Living Unit reconstructed in substantial accordance with the Plat and the original construction plans for the Development, shall be conclusively presumed to be its boundaries, rather than the description expressed in the deed, declaration, or Plat. This presumption applies regardless of settling or lateral movement of the Living Unit and regardless of minor variances between boundaries shown on the Plat or described in the deed or this Declaration and the boundaries of the Living Unit as constructed or reconstructed.

7. Prohibition Against Severance. Any conveyance, judicial sale or other voluntary or involuntary transfer of an Owner's entire estate in a Lot shall also include the Owner's membership interest in the Association, as provided in Section 2 of Article III of this Declaration. Any transfer that attempts to sever these component interests in a Lot shall be void.

8. 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 RIDGEMONT, A Planned Residential Unit Development, as said Lot is identified in the Plat recorded in the office of the County Recorder of Weber County, Utah, on _____, 1988, as Entry No. _____ and in the "Declaration of Covenants, Conditions and Restrictions For Phases 4, 5 and 6 of RIDGEMONT, a Planned Residential Unit Development" recorded in the office of the County Recorder of Weber County, Utah, on AUGUST 10, 1988, as Entry No. 1054640, in Book 1545, at Page 403, TOGETHER with an nonexclusive right and easement of use and enjoyment in and to the Common Areas described and provided for in said Plat and said Declaration of Covenants, Conditions and Restrictions.

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

III. OWNERS ASSOCIATION

1. Organization of the Association. The Association is incorporated under the name "RIDGEMONT 456" as a nonprofit corporation organized under the laws of the State of Utah. From the closing of the sale of the first Lot in the Development, the Association shall be charged with the duties and invested with the powers prescribed by law and set forth in this Declaration, the Articles and the Bylaws.

2. Membership. Every Owner, upon becoming an Owner, shall automatically become a Member of the Association. Ownership of a Lot is the sole qualification for membership. Each Member shall have the rights, duties, privileges and obligations set forth in the Governing Instruments. Membership shall automatically cease when the Owner no longer holds an ownership interest in a Lot. All memberships shall be appurtenant to the Lot conveyed, and cannot be transferred, assigned, conveyed, hypothecated, pledged or alienated except as part of a transfer of the Owner's entire ownership interest, and then only to the transferee. Any transfer of the Owner's title to a Lot shall automatically transfer the appurtenant membership in the Association to the transferee. No share certificate or other evidence of membership in the Association need be issued to any Owner.

3. Classes of Membership. The Association shall have two classes of membership, as follows:

a. All Owners, other than the Declarant, shall be Class A members. Class A membership entitles the holder to one vote for each Lot owned. When a Lot is owned by more than one Person, only one vote may be cast, as further provided in Section 4(b) of this Article III.

b. The Declarant shall be the sole Class B member. The Class B member shall be entitled to three (3) votes for each Lot owned. Class B membership shall cease and be converted to Class A membership upon the occurrence of whichever of the following is first in time:

(1) The total outstanding votes of the Class A members equals or exceeds the total outstanding votes of the Class B member; or

(2) April 1, 1993.

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4. Voting Rights. All voting rights of the Members shall be subject to the following restrictions, limitations and requirements:

a. Except as provided in this Article III, on each matter submitted to a vote of the Members, each Member shall be entitled to cast one vote for each Lot owned.

b. Fractional votes shall not be allowed. When there is more than one record Owner of a Lot ("co-owners"), all of the co-owners shall be Members, but only one of them shall be entitled to cast the single vote attributable to the Lot. Co-owners are encouraged to designate in writing one of their number to vote. If no such designation is made or if it is revoked, the co-owners shall decide among themselves, by majority vote, how that Lot's vote is to be cast. Unless the Association receives a written objection in advance from a co-owner, it shall be conclusively presumed that the voting co-owner is acting with the consent of the other co-owners. No vote shall be cast for a Lot on a particular matter if a majority of the co-owners present in person or by proxy cannot agree on a vote.

c. The Board shall fix, in advance, a record date or dates for the purpose of determining the Owners entitled to notice of, and to vote at, any meeting of Owners. The record date for notice of a meeting shall not be more than ninety (90) nor less than ten (10) days before the date of the meeting. The record date for voting shall not be more than sixty (60) days before the date of the meeting. The Board may also fix, in advance, a record date for the purpose of determining the Owners entitled to exercise any rights in connection with any other action. Any such date shall not be more than sixty (60) days prior to the action.

d. Every Owner entitled to vote at any election of Trustees (as defined in the Articles) may cumulate the Owner's votes and give one candidate a number of votes equal to the number of Trustees to be elected multiplied by the number of votes to which the Owner is entitled, or distribute the Owner's votes on the same principle among as many candidates as the Owner thinks fit. No Owner shall be entitled to cumulate votes for a candidate or candidates unless the candidate's name or candidates' names have been placed in nomination prior to voting and an Owner has given notice at the meeting prior to the voting of the Owner's intention to cumulate votes. If any one Owner has given such notice, all Owners may cumulate their votes for candidates in nomination.

5. Membership Meetings. Article II of the Bylaws, governing meetings of the Members, is hereby incorporated into this Article III of this Declaration by reference.

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6. General Powers and Authority. The Association shall have all the powers of a nonprofit corporation organized under the laws of the State of Utah, subject to any limitations set forth in this Declaration or in the Articles or the Bylaws of the Association. It may perform all acts that may be necessary for or incidental to the performance of the obligations and duties imposed upon it by this Declaration or the other Governing Instruments. Its powers shall include, but are not limited to, the following:

a. The Association shall have the power to establish, fix, levy, collect and enforce the payment of assessments against the Owners in accordance with the procedures set out in Article IV of this Declaration.

b. The Association shall have the power to adopt reasonable Rules and Regulations governing the use of the Common Areas and any other property owned by the Association. A copy of the current Rules and Regulations, if any, shall be given to each Owner and shall be provided to any Owner upon request for a reasonable fee. If any provision of the Rules and Regulations conflicts with any provision of this Declaration, the Articles, or the Bylaws, the Declaration, Articles or Bylaws shall control to the extent of the inconsistency.

c. The Association shall have the right to institute, defend, settle, or intervene in litigation, arbitration, mediation or administrative proceedings in its own name as the real party in interest and without joining with it the Owners, in matters pertaining to the following:

(1) Enforcement of this Declaration, the Articles, the Bylaws or the Rules and Regulations.

(2) Damage to the Common Areas.

(3) Damage to any Living Unit that the Association is obligated to insure.

(4) Damage to any Living Unit that arises out of or is integrally related to damage to the Common Areas that the Association is obligated to maintain or repair.

d. In addition to the general power of enforcement described above, the Association may discipline its Members for violation of any of the provisions of the Governing Instruments by suspending the violator's voting rights and privileges and/or by imposing monetary penalties, subject

to

the following limitations:

(1) The accused Member shall be given notice and an opportunity to be heard with respect to the

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alleged violation(s).

(2) Any suspension of a Member's Association privileges shall not exceed sixty (60) days for each violation.

(3) Any monetary penalty shall not exceed One Hundred Dollars (\$100.00) for each violation.

(4) Except as provided herein and in Article IV of this Declaration (relating to foreclosure for failure to pay assessments) or as a result of the judgment of a court or a decision arising out of arbitration, the Association shall in no way abridge the right of any Owner to the full use and enjoyment of his, her or its Lot.

e. The Association, acting through the Board, shall have the power to delegate its authority, duties and responsibilities to its officers, employees, committees or agents, including a Manager. The term of any agreement with a Manager or the Declarant for the furnishing of maintenance, repair and related services shall not exceed three (3) years, renewable by agreement of the parties for successive one (1) year periods. Such an agreement shall be terminable by either party (i) for cause on no more than thirty (30) days notice, and (ii) without cause on no more than ninety (90) days notice, in either case without the payment of a termination fee.

f. The Association's agents or employees shall have the right to enter any Living Unit when necessary in connection with any maintenance or construction work for which the Association is responsible. Such entry shall be made only upon notice to the Owner (except in the case of an emergency) and with as little inconvenience to the Owner as is practicable, and the Association shall repair any resulting damage at its own expense.

7. Duties of the Association. In addition to the duties delegated to the Association or its agents and employees elsewhere in the Governing Instruments, the Association shall be responsible for the following:

a. The Association, acting through the Board, shall operate, maintain, repair and replace the improvements and Manmade Landscaping located on or within the Common Areas and the exterior surfaces (excluding all glass areas, which shall be maintained by the Owner) of all structures and Living Units in the Development, or contract for the performance of such work; subject to the provisions of Article VIII of this Declaration relating to destruction of improvements, the provisions of Article IX of this Declaration relating to eminent domain and section 3(h) of

Article II of this Declaration relating to damage caused by Owners. The foregoing areas and improvements shall be kept in a clean, sanitary and attractive condition. The Association shall have the exclusive right and duty to acquire, maintain or upgrade any furnishings and equipment in connection with its duties hereunder that it determines are necessary and proper.

Maintenance costs shall be included in the regular assessments; however, if additional work is required for a particular Living Unit, the Association may elect to charge the expenses of that additional work solely to the Owner of the Lot on which the Living Unit is located, in the month in which the work is performed. If the Owner does not pay for the additional work within forty-five (45) days after receiving the bill, the Association shall institute appropriate collection action and shall recover all reasonable costs of collection, including attorneys' fees and interest from the due date until paid at the rate of eighteen percent (18%) per annum.

b. The Association shall use the maintenance fund described in Section 3 of Article IV of this Declaration to, among other things, acquire and pay for the following:

(1) Water, sewer, garbage, electrical, telephone, gas, television and other necessary utility service for the Common Areas and, to the extent not separately metered and charged, for the Lots;

(2) The insurance policies described in Article VII of this Declaration;

(3) The services of any personnel that the Board determines are necessary or proper for the operation of the Common Areas and the maintenance duties described above; and

(4) Legal and accounting services necessary or proper in the operation of the Common Areas and the maintenance duties described above, or the enforcement of this Declaration.

c. The Association shall prepare a pro forma operating budget for each fiscal year and distribute a copy to each Owner prior to the beginning of the fiscal year. Such budget shall contain at least the following:

(1) The estimated revenues and expenses on an accrual basis;

(2) The amount of the total cash reserves currently available for replacement or major repair of Common Areas and for contingencies;

(3) Concerning any major components of the Common Areas or external surfaces of the Living Units for which the Association is responsible, the following information: (i) an itemized estimate of the remaining life; (ii) the methods of funding to defray the costs of repair, replacement or additions; and (iii) a general statement of procedures used to calculate and establish reserves for the expenses set forth in Section 7(b) above.

d. Within one hundred twenty (120) days after the close of each fiscal year, the Association shall prepare and distribute to the Owners an annual report consisting of the following:

(1) A balance sheet as of the end of the fiscal year.

(2) An operating (income) statement for the fiscal year.

(3) A statement of changes in financial position for the fiscal year.

(4) For any year in which the gross income of the Association exceeds Fifty Thousand Dollars (\$50,000.00), a copy of a review opinion of an independent accountant (stating that the annual report is prepared in accordance with generally accepted accounting principles); otherwise, the report shall include a certificate of an authorized officer of the Association that the annual report was prepared without audit or review from the books and records of the Association and fairly presents the financial condition of the Association.

e. The Association shall prepare a balance sheet, as of an accounting date that is the last day of the month closest in time to six (6) months from the date of closing of the first sale of a Lot in the Development, and an operating statement for the period from the date of the first closing to the foregoing accounting date. The Association shall distribute this statement to the Owners within sixty (60) days after the accounting date. This operating statement shall include a schedule of assessments received and receivable, identified by the number of the Lot and the name of the Owner assessed.

f. The Association shall provide any Owner with the following documents within ten (10) days of the mailing or delivery of a written request therefor, which shall include the sum of Thirty-five Dollars

(\$35.00) to defray the costs of reproduction and handling:

(1) A copy of the Governing Instruments

(2) A copy of the most recent annual report distributed to Owners pursuant to Section 7(d) of this Article III.

(3) A written statement from an authorized representative of the Association specifying (i) the amount of any assessments levied on the Owner's Lot that are unpaid as of the date of the statement; and (ii) the amount of late charges, interest and costs of collection that, as of the date of the statement, are or may be made a lien on the Owner's Lot pursuant to Section 9 of Article IV of this Declaration. The fee charged by the Association for the foregoing documents may be increased from time to time whenever necessary to cover the Association's costs of preparing and reproducing such requested items.

g. The Association shall pay all real and personal property taxes and assessments levied against it, its personal property or any real property owned by it.

8. Board of Trustees. The affairs of the Association shall be managed and its duties and obligations performed by an elected Board of Trustees, as provided in Article III of the Bylaws, which article is herein incorporated by reference.

9. Inspection of Books and Records. Article XI of the Bylaws, governing the duty of the Association to maintain certain books and records and the rights of Members and Trustees to obtain and inspect these books and records, is herein incorporated by reference.

IV. ASSESSMENTS AND COLLECTION PROCEDURES

1. Covenant to Pay. The Declarant covenants and agrees, for each Lot now or hereafter owned by it in the Development, and each Owner by acceptance of a deed to the Owner's Lot is deemed to covenant and agree, to pay to the Association the regular and special assessments levied pursuant to the provisions of this Declaration. A regular or special assessment and any late charges, reasonable costs of collection and interest, as assessed in accordance with the provisions of this Article, shall be a debt of the Owner of the Lot at the time the assessment or other sums are levied. The Owner may not waive or

otherwise escape liability for these assessments by nonuse of the Common Areas or abandonment of the Owner's Lot.

2. Exemption From Assessment. Any Owner (including Declarant) of a Lot in the Development which does not include a structural improvement approved by the appropriate municipal authority for residential occupancy shall be exempted from that portion of any assessment that is for the purpose of defraying expenses and reserves directly attributable to the existence and the use of those structural improvements. This exemption shall include, but not be limited to the following:

- a. Roof replacement;
- b. Exterior maintenance;
- c. Walkway and parking area lighting;
- d. Refuse disposal;
- e. Cable television;
- f. Domestic water supplied to Lots; and
- g. Hazard insurance.

Any such exemption shall be in effect only until a notice of completion of a Living Unit has been issued.

3. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the Owners, for the operation, replacement, improvement and maintenance of the Property and to discharge any other obligations of the Association under this Declaration. All assessment payments shall be put into a maintenance fund to be used for the foregoing purposes.

4. Regular Assessments. Within sixty (60) days prior to the beginning of each calendar year, the Board shall estimate the net expenses to be paid during that year, including a reasonable provision for contingencies and replacements, with adjustments made for any expected income and surplus from the prior year's fund. The estimated cash requirement shall be assessed to each Owner according to the ratio of the number of Lots owned by that Owner to the total number of Lots in the Development subject to assessment. Regular assessments for fractions of a month shall be prorated. Each Owner is obligated to pay assessments to the Board, in advance, in equal monthly installments on or before the first day of each month unless the Board adopts an alternative method for payment. Declarant shall pay its full prorated share of the regular assessments on any unsold Lots subject to regular assessments.

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5. Special Assessments. If the Board determines that the amount to be collected from regular assessments will be inadequate to defray the common expenses for the year due to the cost of any construction, unexpected repairs or replacements of capital improvements upon the Common Areas or external surfaces of the Living Units, or any other reason, it shall make a special assessment for the additional amount needed. Special assessments shall be levied and collected in the same manner as regular assessments.

6. Limitations on Assessments. The Board may not, without the approval of Members casting a majority of the votes at a meeting or election of the Association conducted in accordance with the Bylaws (as amended from time to time), impose a regular annual assessment per Lot that is more than ten percent (10%) greater than the regular annual assessment for the preceding year, or levy special assessments which in the aggregate exceed five percent (5%) of the budgeted gross expenses of the Association for that year. These limitations shall not apply to the following:

a. A special assessment levied against an Owner to reimburse the Association for funds expended in order to bring the Owner into compliance with provisions of the Association's Governing Instruments.

b. Assessment increases for the maintenance or repair of the Common Areas or other areas that the Association is obligated to maintain or repair, including but not limited to the payment of insurance premiums, the payment of utility bills, the costs incurred in maintaining or repairing structures or improvements, and costs to fund reserves.

c. Assessment increases addressing emergency situations.

7. Commencement of Assessments. Regular assessments shall commence on all Lots in a phase of development on the first day of the month following the first conveyance of a Lot in the phase, subject to the exemption provided for in Section 2 of this Article IV for uncompleted Living Units.

c. Late Charges. Late charges may be levied by the Association against an Owner for the delinquent payment of regular and special assessments. An assessment is delinquent fifteen (15) days after its due date. If an assessment is delinquent the Association may recover all of the following from the Owner:

a. Reasonable costs incurred in collecting the delinquent assessment, including reasonable attorneys' fees.

b. A late charge not exceeding ten percent (10%) of the delinquent assessment or Ten Dollars (10.00), whichever is greater.

c. Interest on the foregoing sums, at an annual percentage rate of twelve percent (12%), commencing thirty (30) days after the assessment becomes due.

No late charge may be imposed more than once for the delinquency of the same payment. However, the imposition of a late charge on any delinquent payment shall not eliminate or supersede charges imposed on prior delinquent payments.

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9. Enforcement of Assessments and Late Charges. A delinquent regular or special assessment and any related late charges, reasonable costs of collection and interest assessed in accordance with Section 8 of this Article IV shall become a lien upon the Lot when a notice of delinquent assessment is duly recorded in the Office of the County Recorder of Weber County, Utah, describing the nature of the delinquency and the Lot affected. Any such lien may be enforced in any manner permitted by law, including judicial foreclosure or nonjudicial foreclosure. Any nonjudicial foreclosure shall be conducted by the trustee named in the notice of delinquent assessment or by a trustee substituted in the same manner as provided under the laws of the State of Utah for the substitution of trustees under deeds of trust. If the sums specified in the notice of delinquent assessment are paid before the completion of any judicial or nonjudicial foreclosure, the Association shall record a notice of satisfaction and release or a rescission of any declaration of default and demand for sale, as the case may be.

10. Statement of Delinquent Assessment. The Association shall provide any Owner, upon written request, with a statement specifying the amounts of any delinquent assessments and related late charges, interest and costs levied against the Owner's Lot, as provided in Section 8 of this Article IV.

11. Assessments for Damage Caused By Utility. In addition to the regular and special assessments described hereinabove, the Association shall levy such special assessments as may from time to time be necessary for the purpose of repairing and restoring any damage or disruption resulting to streets or other parts of the Common Areas from the activities of municipal workers in maintaining, repairing or replacing utility lines and related facilities located on, over or under the same.

V. USE RESTRICTIONS AND COVENANTS

1. General Restrictions on Use. In exercising their ownership rights with respect to a Living Unit or their rights

to use the Common Areas, the Owner and the Owner's family, guests, employees, tenants and invitees shall not do any of the following:

a. Attempt to further subdivide a Lot without obtaining the prior approval of the Association.

b. Occupy or use a Living Unit, or permit all or any part of a Living Unit to be occupied or used, for any purpose other than as a private residence. Nothing in this Declaration shall prevent an Owner from leasing or renting his, her or its Living Unit, provided that it is not for transient or hotel purposes, is for a period of at least thirty (30) days and is expressly made subject to the Governing Instruments.

c. Permit anything to obstruct the Common Areas or store anything in the Common Areas without the prior consent of the Board, except as otherwise provided in the Governing Instruments.

d. Perform any act or keep anything on or in any Living Unit or Common Areas that will increase the rate of insurance on the Living Units or the Common Areas without the Board's prior written consent. Further, no Owner shall permit anything to be done or kept in his or her Living Unit or in the Common Areas that would result in the cancellation of any insurance on any Living Unit or the Common Areas or would violate any law.

e. Store gasoline, kerosene, cleaning solvents or other flammable liquids or substances in the Common Areas or in any Living Unit; provided, however, that reasonable amounts of these liquids may be placed in metal containers and stored in properly ventilated storage areas.

f. Install, or cause to be installed, any air conditioning or swamp cooler units on the rooftop of any Living Unit, except in accordance with Article VI of this Declaration.

g. Display any sign to the public view on or from any Living Unit or the Common Areas without the prior written consent of the Board, except a sign not larger than 18" by 24" advertising the property for sale, lease or exchange, in which case the sign must be displayed from a window of the Living Unit.

h. Raise, breed or keep animals, livestock or poultry of any kind in or about a Living Unit or in

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the Common Areas, except dogs, cats or other common domestic household pets, which may kept in Living Units, subject to the Rules and Regulations, if any, applicable thereto. Dogs and other permitted animals must be kept on a leash when not confined to a Living Unit. No Owner shall permit his or her dog or animal to create unsanitary conditions anywhere in the Development. No animal or bird shall be allowed to make an unreasonable amount of noise. No structure for the care, housing or confinement of any animal or bird shall be maintained so as to be visible from any other Lot or from the Common Areas. The Board shall have the authority to prohibit any occupant of a Living Unit from keeping within the Living Unit any animal or bird which the Board determines to be a nuisance to any other Owner.

i. Mount any exterior radio, television, ham or citizens band radio antenna, nor any other type of mast, pole or other similar device, outside any Living Unit without the prior written consent of the Architectural Control Committee.

j. Use any form of exterior lighting other than standard clear or opal incandescent lamps of normal wattage, fitted to the exterior lighting fixtures common throughout the Development.

k. Place or operate any exterior speakers, horns, whistles, bells or other sound devices where they can be heard from outside the Living Unit.

l. Use any part of any Living Unit or the Common Areas for any commercial, manufacturing, mercantile, storage, vending or other nonresidential use, without first obtaining the written consent of the Board.

m. Erect any outside clothesline or other outside facilities for drying or airing clothes, laundry or bedding materials.

n. Install, or cause to be installed, any exterior draperies, shades, awnings or window guards on any Living Unit, except with the prior written consent of the Architectural Control Committee.

o. Engage in any noxious, offensive or hazardous activity in any part of the Development. Without limiting the generality of the foregoing, no firearms shall be discharged within the Development and no open fires shall be lighted or permitted within the Development except in interior fireplaces and in a contained barbecue device while attended and being used for cooking purposes.

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p. Operate any motorcycle, trail bike, three-wheel powered device or other off-road recreational type of vehicle within the Common Areas.

q. Alter or modify the exterior of any improvements enveloping a Living Unit or any natural or Manmade Landscaping adjoining a Lot without first obtaining the written consent of the Architectural Control Committee.

r. Alter, construct or remove anything on or from the Common Areas, except with the written consent of the Board.

s. Park, abandon or repair any automobile, truck, trailer, camper, boat or other recreational motor vehicle in the Common Areas or in any Exclusive Use Common Areas except in a space designated for the Owner by the Board or the Governing Instruments.

2. Damage Liability. Each Owner shall be liable to the Association for all damage to the Common Areas or other property of or maintained by the Association that is sustained by reason of the negligence or willful misconduct of that Owner or his or her family, guests, employees, tenants and invitees, to the extent that the damage is not covered by the casualty insurance obtained and maintained by the Association pursuant to Section 1 of Article VII of this Declaration

3. Exemption. Declarant shall be exempt from the restrictions of Section 1 of this Article V to the extent necessary to complete any construction work, sales activities or additions to or affecting the Development. This exemption includes, but is not limited to, maintaining Living Units as models, placing advertising signs on the Property, and generally using Lots in the Development and the Common Areas to carry on construction and development activity.

4. Equitable Servitudes. The covenants and restrictions set forth in this Declaration shall be enforceable equitable servitudes and shall inure to the benefit of and bind all Owners. These servitudes may be enforced by any Owner or by the Association or both.

VI. ARCHITECTURAL AND DESIGN CONTROL

1. Architectural and Design Approval. No building, addition, wall, fence or alteration shall be commenced, constructed, maintained or permitted to remain on any lot or Living Unit, or on the Common Areas, until complete plans and specifications of the proposed work have been submitted to and

approved by the Architectural Control Committee. The Committee shall review the plans and specifications to determine whether they are compatible with the standards of design, construction and quality of the Development and, if they are not, shall require that changes be made before approval or, if no such changes appear reasonably likely to conform the proposed work to the requirements of this Section 1 of Article VI, shall decline to approve the proposed improvements.

2. Architectural Control Committee. The Architectural Control Committee shall consist of three (3) members and shall be formed as follows:

a. The Declarant shall appoint all of the original members and all replacements until the first anniversary of the closing date of the first sale of a lot in the first Plat of the Development to be recorded. Thereafter, the Board shall have the right to appoint the members of the Committee, who may also be Trustees.

b. Persons appointed to the Committee by the Board shall be Members of the Association. Persons appointed to the Committee by Declarant need not be Members of the Association.

c. The term of the initial appointees shall endure until their resignation, removal or inability to serve on the Committee, and they may be removed at any time with or without cause.

d. The Committee shall meet as often as it deems necessary to properly carry out the obligations imposed upon it, unless otherwise directed by the Board.

3. Board of Trustees. All decisions of the Architectural Control Committee are subject to review by the Board and may be appealed to the Board by any Owner. The Committee shall notify the Board of all violations of this Article VI and of any noncompliance with the Committee's rulings or with the plans and specifications submitted to and approved by the Committee. Thereafter, the Board shall take any actions it deems necessary, in accordance with the provisions of this Declaration.

VII. INSURANCE

1. Fire and Casualty Insurance. The Association shall obtain and maintain a policy or policies of fire and casualty insurance with an extended coverage endorsement for the full insurable replacement value of the improvements in the Development. The amount of coverage shall be determined by the

Board. This insurance shall be maintained for the benefit of the Association, the Owners and their Mortgagees, as their interests may appear as named insureds, subject however to any loss payment requirements set forth in this Declaration.

2. Blanket Public Liability Insurance. The Association shall obtain and maintain a policy or policies insuring the Association, Declarant, any Manager, the Owners, and the Owners' relatives, invitees, guests, employees and their agents against any liability for bodily injury, death and property damage arising from the activities of the Association and its Members with respect to the Common Areas. Limits of liability under the insurance shall not be less than \$1,000,000 covering all claims for death, personal injury and property damage arising out of a single occurrence. The limits and coverage shall be reviewed at least annually by the Board and increased in its discretion.

3. Other Association Insurance. The Association shall purchase and maintain workers' compensation insurance to the extent necessary to comply with any applicable laws. The Association shall also purchase and maintain fidelity bond coverage which names the Association as an obligee for any person or entity handling funds of the Association, whether or not such persons or entities are compensated for their services. This coverage shall be in an amount that is at least equal to the estimated maximum of funds, including reserve funds, in the custody of the Association or any Manager at any given time during the term of the bond. However, the aggregate amount of these bonds must not be less than one hundred fifty percent (150%) of each year's estimated annual operating expenses and reserves. The Association also may purchase and maintain a blanket policy of flood insurance and demolition insurance in an amount that is sufficient to cover any demolition that would occur following the total or partial destruction of the Development and a decision not to rebuild.

4. Trustee for Policies. The Association, acting through the Board, is hereby appointed and shall be deemed trustee of the interests of all named insureds under all insurance policies purchased and maintained by the Association. All insurance proceeds under any of these policies shall be paid to the Association. The Board shall use the proceeds for the repair or replacement of the property for which the insurance was carried or for the purposes described in Article VIII of this Declaration. The Board is also authorized to negotiate loss settlements with the appropriate insurance carriers, to compromise and settle any claim or enforce any claim by lawful action, and to execute loss claim forms and release forms in connection with such settlements.

5. Individual Insurance. No Owner shall obtain or maintain fire and casualty insurance for the improvements enveloping the Owner's Living Unit. If any Owner does so, he or she shall be liable to the Association for any resulting

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reduction in the insurance proceeds payable under the policy or policies of fire and casualty insurance maintained by the Association pursuant to Section 1 of this Article VII. Notwithstanding the foregoing, an Owner may separately insure his or her personal property and may obtain and maintain personal liability and property damage liability insurance for his or her Living Unit, provided that the insurance contains a waiver of subrogation rights by the carrier as to the other Owners, the Association, Declarant, and the Institutional First Mortgagee of the Owner's Lot.

6. Insurance Premiums. Insurance premiums for any insurance coverage obtained by the Association shall be included in the regular assessments. That portion of the regular assessments necessary for the required insurance premiums shall be used solely for the payment of premiums when due.

VIII. DAMAGE OR DESTRUCTION

1. Duty to Restore and Replace. If any of the improvements in the Development are destroyed or damaged, the Association shall restore and replace the improvements, using the proceeds of insurance maintained pursuant to Article VII of this Declaration, subject to the provisions of this Article.

2. Proceeds Justifying Automatic Restoration and Repair. If the proceeds of any insurance maintained pursuant to Article VII of this Declaration for reconstruction or repair of the Development are equal to at least eighty-five percent (85%) of the estimated cost of restoration and repair, the Board shall use the insurance proceeds for that purpose, shall levy a special assessment to provide the necessary additional funds, and shall have the improvements promptly rebuilt, unless the Members by the vote or written consent of not less than seventy-five percent (75%) of the total votes eligible to be cast object to the restoration or repair work within sixty (60) days of the damage or destruction.

3. Approval by Members of Certain Special Assessments. If the proceeds of any insurance maintained by the Association pursuant to Article VII of this Declaration for reconstruction or repair of the Development are less than eighty-five percent (85%) of the estimated cost of restoration and repair, any restoration and repair work must be authorized by the vote or written consent of Members representing at least seventy-five percent (75%) of the total votes eligible to be cast and by the written consent of beneficiaries of at least seventy-five percent (75%) of the First Mortgages on Lots in the Development. These authorizations must be given within sixty (60) days of the damage or destruction and must authorize the Board to levy a special assessment to provide the necessary funds over and above the amount of any insurance proceeds available for the work.

4. Ordering Reconstruction or Repair. If reconstruction or repair work is to take place pursuant to this Article VIII, the Board shall take the following steps:

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a. Prepare the necessary documents, including an executed and acknowledged certificate stating that damage has occurred, describing it, identifying the improvements suffering the damage, an adequate legal description of the Lots affected, the name of the insurer against whom claim is made, and the name of any insurance trustee, stating (if applicable) that the consent described in Section 3 of this Article VIII has been obtained, and reciting that the certificate has been recorded pursuant to this paragraph. The certificate shall be recorded in the Office of the County Recorder of Weber County, Utah within ninety (90) days from the date of the damage or destruction.

b. Obtain firm bids (including the obligation to obtain a performance bond) from two or more responsible contractors to rebuild the Development in accordance with its original plans and specifications and, as soon as possible thereafter, call a special meeting of the Members to consider the bids. If the Board fails to do so within sixty (60) days after the casualty occurs, any Owner may obtain the bids and call and conduct the special meeting in the manner required by this paragraph. At the meeting, Members representing at least sixty-seven percent (67%) of the total votes eligible to be cast may elect to reject all of the bids and thus not to rebuild, or Members representing at least fifty-one percent (51%) of the total votes eligible to be cast may elect to reject all bids requiring amounts exceeding the available insurance proceeds by more than five thousand dollars (\$5,000.) Failure to reject all bids shall authorize the Board to accept the unrejected bid it considers most favorable. Failure to call the special meeting or to repair the casualty damage within twelve (12) months from the date the damage occurred shall be deemed for all purposes to be a decision not to rebuild.

c. If a bid is accepted, the Board shall let the contract to the successful bidder and distribute the insurance proceeds to the contractor as required by the Association's contract with the contractor.

d. Levy a special assessment to make up any deficiency between the total insurance proceeds and the contract price for the repair or rebuilding, with the assessment and all insurance proceeds, whether or not subject to liens of Mortgages, to be used solely

4. Ordering Reconstruction or Repair. If reconstruction or repair work is to take place pursuant to this Article VIII, the Board shall take the following steps:

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a. Prepare the necessary documents, including an executed and acknowledged certificate stating that damage has occurred, describing it, identifying the improvements suffering the damage, an adequate legal description of the Lots affected, the name of the insurer against whom claim is made, and the name of any insurance trustee, stating (if applicable) that the consent described in Section 3 of this Article VIII has been obtained, and reciting that the certificate has been recorded pursuant to this paragraph. The certificate shall be recorded in the Office of the County Recorder of Weber County, Utah within ninety (90) days from the date of the damage or destruction.

b. Obtain firm bids (including the obligation to obtain a performance bond) from two or more responsible contractors to rebuild the Development in accordance with its original plans and specifications and, as soon as possible thereafter, call a special meeting of the Members to consider the bids. If the Board fails to do so within sixty (60) days after the casualty occurs, any Owner may obtain the bids and call and conduct the special meeting in the manner required by this paragraph. At the meeting, Members representing at least sixty-seven percent (67%) of the total votes eligible to be cast may elect to reject all of the bids and thus not to rebuild, or Members representing at least fifty-one percent (51%) of the total votes eligible to be cast may elect to reject all bids requiring amounts exceeding the available insurance proceeds by more than five thousand dollars (\$5,000.) Failure to reject all bids shall authorize the Board to accept the unrejected bid it considers most favorable. Failure to call the special meeting or to repair the casualty damage within twelve (12) months from the date the damage occurred shall be deemed for all purposes to be a decision not to rebuild.

c. If a bid is accepted, the Board shall let the contract to the successful bidder and distribute the insurance proceeds to the contractor as required by the Association's contract with the contractor.

d. Levy a special assessment to make up any deficiency between the total insurance proceeds and the contract price for the repair or rebuilding, with the assessment and all insurance proceeds, whether or not subject to liens of Mortgages, to be used solely

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for the rebuilding. This assessment shall be apportioned equally to each Lot for any damage or destruction to the Common Areas. For any damage or destruction to improvements enveloping one or more Living Units, every affected Owner shall pay a proportionate share based on the relative square footage of such Owner's Living Unit as compared to the total square footage of all Living Units in the Development that have suffered damage. If any Owner fails to pay the special assessment within fifteen (15) days after it is levied, the Board shall enforce the assessment in the manner described in Section 9 of Article IV of this Declaration.

5. Election Not to Rebuild. Upon an election not to rebuild, the Board, as soon as reasonably possible and as agent for the Owners, shall execute and record a certificate stating that the Association shall not rebuild. The Board shall also sell the entire Development on terms acceptable to the Board and free from the effect of this Declaration, which shall terminate upon the recordation of the instrument transferring title to the Development pursuant to any such sale. The net proceeds, together with all insurance proceeds for damage or destruction, shall then be distributed by certified checks, payable jointly to the Owners and their respective Mortgagees, proportionately according to the respective market values of the Lots at the time of the destruction as determined by an independent appraisal. The appraisal shall be performed by an independent appraiser who shall be selected by the Association and who shall be a member of, and apply the standards of, a nationally recognized appraiser organization.

6. Minor Restoration and Repair Work. The Association shall order restoration or repair work without complying with the other provisions of this Article VIII whenever the estimated cost of the work does not exceed Ten Thousand Dollars (\$10,000) for the Common Areas and Five Thousand Dollars (\$5,000) for one or more Lots. If insurance proceeds are unavailable or insufficient, the Association shall levy a special assessment for the cost of the work. The assessment shall be levied in the manner described in Section 5 of Article IV of this Declaration.

IX. EMINENT DOMAIN

1. Definition of Taking. As used in this Article, "taking" means condemnation by any governmental agency having the power of eminent domain or by sale under threat of the exercise of that power.

2. Sale to Condemning Authority. If a governmental agency proposes to condemn all or a portion of the Development, the Association may sell all or any portion of the Development to

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the condemning authority if not less than seventy-five percent (75%) of all Owners and not less than seventy-five percent (75%) of all Institutional First Mortgagees consent in writing to the sale. Any such sale shall be made by the Association in the capacity of attorney-in-fact for the Owners, acting under an irrevocable power of attorney which each Owner grants to the Association by accepting title to a Lot. The sales price shall be any amount deemed reasonable by the Board.

3. Total Sale or Taking. A total sale or taking occurs when (i) there is a permanent taking or a sale to a condemning authority by the Association pursuant to the foregoing Section 2 of an interest in all or part of the Common Areas or of all or part of one or more Lots, which substantially and adversely affects the ownership, operation and use of the Development in accordance with the provisions of this Declaration; and (ii) one hundred twenty (120) days have passed since the effective date of the taking and the Owners whose Lots remain habitable after the taking (the "Remaining Lots") have not by affirmative vote of a majority of their entire voting interest approved a continuation of the Development and the repair, restoration and replacement to the extent feasible of the Common Areas and the Remaining Lots. Within sixty (60) days after the effective date of any sale or taking which in the opinion of the Board would constitute a total sale or taking, the Board shall call a special meeting of the Members to determine whether or not the Owners of the Remaining Lots will continue the Development as provided in this Section 3. If there is a total sale or taking, the Board shall distribute the proceeds of the total sale or taking and the total proceeds of any sale pursuant to a partition action, after deducting all incidental fees and expenses related to the taking or partition, to all Owners and their Mortgagees in accordance with the court judgment or the agreement between the condemning authority and the Association, if any such judgment or agreement exists. In all other cases, the proceeds shall be distributed among the Owners and their respective Mortgagees according to the relative values of the Lots affected by the condemnation as determined by an independent appraisal. That appraisal shall be performed by an independent appraiser who shall be selected by the Association and who shall be a member of, and apply the standards of, a nationally recognized appraiser organization.

4. Partial Sale or Taking. A partial sale or taking occurs if there is a sale or taking that is not a total sale or taking as defined in Section 3 of this Article IX. The proceeds from any sale or taking shall be disbursed in the following order of priority, which shall be incorporated into any court judgment of condemnation or agreement between a condemning authority and the Association:

- a. To the payment of related fees and expenses.
- b. To Owners of Lots that have been sold or taken and their respective Mortgagees, as their

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interests may appear, in an amount up to the fair market value of the Lot, as that value is determined by the court in the condemnation proceeding or, in the absence of such a determination, by an appraiser selected in the manner described in the foregoing Section 3. Such a payment shall immediately terminate the recipient's status as an Owner and the Board, acting as the attorney-in-fact of the Owners of the Remaining Lots, shall amend this Declaration and any other documents, as appropriate, to delete the sold or taken Lots from the Development and to allocate the former Owners' interests in the Association to the Remaining Owners, on the basis of their relative ownership of the Association. Each Owner whose interest is terminated pursuant to this Section 4 shall, at the request of the Board, execute and acknowledge any deed or other instrument that the Board deems necessary to comply with the requirements of any agreement between the condemning authority and the Association or to evidence the termination.

c. To the payment of severance damages to First Mortgagees of record of Remaining Lots affected by the partial sale or taking, to the extent that the Mortgagees can prove that their security has been impaired by the taking.

d. To the repair, restoration and replacement of the Common Areas and any portions of the Remaining Lots that the Owners are not obligated to restore, to the extent feasible.

X. RIGHTS OF MORTGAGEES

1. Warranty. Declarant hereby warrants that Mortgagees of Lots in the Development shall be entitled to the rights and guarantees set forth in this Article X. No amendment of this Declaration shall affect the rights of the holder of any First Mortgage recorded prior to the recordation of the amendment who does not join in the execution of the amendment.

2. Subordination. Notwithstanding any other provision of this Declaration, liens created under section 9 of Article IV of this Declaration upon any Lot shall be subject and subordinate to, and shall not affect the rights of the holder of, the indebtedness secured by any recorded First Mortgage upon such an interest made in good faith and for value, provided that any transfer of a Lot as the result of a foreclosure or exercise of a power of sale shall not relieve the new Owner from liability for any assessments that become due after the transfer. Such a transfer shall extinguish the lien of assessments that were due and payable prior to the transfer of the Lot.

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3. Inapplicability of Right of First Refusal. Should any of the Governing Instruments ever provide for a "right of first refusal," this right shall not impair the rights of any First Mortgagee to:

- a. Foreclose or take title to a Lot pursuant to the remedies provided in the Mortgage;
- b. Accept a deed in lieu of foreclosure in the event of default by a Mortgagor; or
- c. Subsequently sell or lease a Lot so acquired by the Mortgagee.

4. Notice of Default. A First Mortgagee, upon request, will be entitled to written notification from the Association of any default in the performance by the Mortgagor of any obligation under the Governing Instruments that is not cured within sixty (60) days.

5. Unpaid Assessments. Any First Mortgagee who obtains title to a Lot pursuant to the remedies provided in the Mortgage or foreclosure of the Mortgage shall not be liable for the Lot's unpaid assessments that accrue prior to the acquisition of title to the Lot by the Mortgagee.

6. Mortgagee Approval of Material Amendments. Notwithstanding Article XII of this Declaration, any amendments to this Declaration materially affecting any of the following shall require at least fifty-one percent (51%) of the total votes eligible to be cast at a meeting of the Members and the prior written approval of at least sixty-seven percent (67%) of the First Mortgagees:

- a. Voting rights of Members;
- b. Rights of Owners to use the Common Areas;
- c. Reserves and responsibility for maintenance, repair and replacement of the Common Areas and the exteriors of Living Units;
- d. Boundaries of any Lot;
- e. Conversion of Lots into Common Areas or Common Areas into Lots;
- f. Leasing of Living Units;
- g. Annexation, addition or withdrawal of real property to or from the Development;
- h. Assessments, assessment liens or the subordination of these liens;

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i. Casualty and liability insurance or fidelity bonds; or

j. Any provisions expressly benefitting First Mortgagees or insurers or governmental guarantors of First Mortgages.

Notwithstanding the foregoing, any First Mortgagee who receives a written request from the Board to approve a proposed amendment or amendments requiring consent under this Section 6 who does not deliver a negative response to the Board within thirty (30) days of the receipt of the request shall be deemed to have approved the proposed amendment or amendments.

7. Mortgages Approval of Other Actions. Unless at least sixty-seven percent (67%) of the First Mortgagees (based upon one vote for each First Mortgage owned or serviced) and at least fifty-one percent (51%) of the Owners other than Declarant have given their prior written approval, the Association shall not be entitled to:

a. By act or omission, seek to abandon or terminate the Development;

b. Change the obligations of any individual Lot for either of the following purposes, unless the change is due to an annexation pursuant to Article XI of this Declaration:

- (1) Levying assessments or charges, or
- (2) Allocating distributions of hazard insurance proceeds or condemnation awards.

c. Partition or subdivide any Lot;

d. By act or omission, seek to abandon, partition, subdivide, encumber, sell or transfer the Common Areas unless due to an annexation pursuant to Article XI of this Declaration (the granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Areas shall not be deemed a transfer within the meaning of this paragraph); or

e. Use hazard insurance proceeds for losses to any Development property (whether to improvements enveloping Living Units or to the Common Areas) for other than the repair, replacement or reconstruction of that property, except as provided by statute or by Article VIII of this Declaration.

8. Liens. All taxes, assessments and charges that may become liens prior to the First Mortgage under local law shall

relate only to the individual Lots and not to the Development as a whole.

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9. Priority. No provision of the Governing Instruments gives any Owner, or any other party, priority over any rights of the First Mortgagee in the Lot pursuant to its Mortgage in the case of a distribution to the Owner of insurance proceeds or condemnation awards for losses to, or a taking of, all or a portion of a Lot or Lots and/or the Common Areas.

10. Reserve Fund. Association assessments shall be large enough to provide for an adequate reserve fund for maintenance, repairs and replacement of those common and private elements that must be replaced on a periodic basis. The Reserve fund shall be funded by the regular assessments rather than by special assessments.

11. Management. Any agreement for professional management of the Development shall not exceed three (3) years and shall provide that either party may terminate the agreement, with or without cause and without the imposition of a termination fee, upon no more than ninety (90) days' written notice.

12. Right to Inspect Books and Records. Institutional First Mortgagees, upon written request, shall have the right to (i) examine the books and records of the Association during normal business hours, and (ii) require the submission of any financial data furnished to the Owners by the Association.

13. Payments by Mortgagees. First Mortgagees may, jointly or severally, pay any overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for the Living Units and/or the Common Areas, and First Mortgagees making these payments shall be entitled to immediate reimbursement from the Association.

14. Right to Furnish Mortgage Information. Each Owner hereby authorizes the First Mortgagee of a First Mortgage on the Owner's Lot to furnish information to the Board concerning the status of the First Mortgage and the loan that it secures.

XI. ANNEXATION OF ADDITIONAL PROPERTY

1. Additions by Declarant. Declarant shall have the right to add all or any portion of the Additional Land to the Development pursuant to a plan of phased development submitted to the City of Washington Terrace, which right may be exercised without obtaining the vote or consent of any other Person (including any Owner, Mortgagee or the Association) and may be limited only as specifically provided in this Declaration. This election shall in each case be made by the recordation of a supplementary declaration ("Supplementary Declaration.") The

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Supplementary Declaration shall describe the real property to be annexed, shall state that the property described therein is being annexed to the Development pursuant to Article XI of this Declaration and shall set forth the information, if any, required by Section 6 of this Article XI. The Supplementary Declaration may also set forth any additional covenants, conditions, restrictions, reservations and easements that Declarant deems appropriate for that phase of development.

2. Other Additions. In addition to real property annexed by the Declarant, real property may be annexed to the Development and brought within the general plan and scheme of this Declaration by the approval by vote or written consent of at least sixty-seven percent (67%) of the voting power of the Association.

3. Rights and Obligations of Owners of Annexed Property. Upon the recordation of the Supplementary Declaration, the real property described in it shall be part of the Development and subject to all provisions of this Declaration in the same manner as if it were originally covered by this Declaration. Thereafter, the rights, powers and responsibilities of Owners of Lots within the annexed property shall be the same as if the annexed property were originally covered by this Declaration; provided, however, that their voting rights shall not commence until the date of commencement of regular assessments for their Lots. The commencement of assessments on the annexed real property shall be governed by Section 7 of Article IV of this Declaration.

4. Reciprocal Easements. Declarant hereby reserves, for the benefit of and appurtenant to the Lots located in any phase of development annexed to the first phase of the Development and their respective Owners, reciprocal easements to use the Common Areas and facilities (other than the Exclusive Use Common Areas) in the first phase pursuant to and in the manner set forth in this Declaration. Declarant hereby grants, for the benefit of and appurtenant to the Lots in the first phase of the Development and their Owners, a nonexclusive easement to use the Common Areas and facilities (other than any Exclusive Use Common Areas) in each phase of development annexed to the first phase, pursuant to and in the manner set forth in this Declaration. These reciprocal easements shall be effective as to any annexed real property upon the first closing of a sale of a Lot in the annexed property.

5. Rights and Statements Concerning Annexed Property. Declarant hereby furnishes the following information and statements concerning the Additional Land and Declarant's right and option concerning expansion of the Development by the addition thereto of all or portions of the Additional Land:

a. All of the Additional Land need not be added to the Development if any of it is added. Rather, a

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portion or portions of the Additional Land may be added to the Development at any time, in accordance with the requirements hereof.

b. There are no limitations or requirements governing the size, location or configuration of any given portion of the Additional Land which can be added to the Development or governing the order in which particular portions of the Additional Land can be added to the Development.

c. There are no limitations or requirements (other than zoning and municipal building restrictions) governing the layout, design, size, location, density, permitted uses, legal structure or other characteristics of the Lots, Living Units, Exclusive Use Common Areas, and Common Areas to be created on any portion of the Additional Land added to the Development. Notwithstanding anything contained in this Declaration which may be construed to the contrary, the Plat and Supplementary Declaration to be executed, acknowledged, filed and recorded in order to annex any portion of the Additional Land to the Development may revise, redefine, replace or negate the effect of any provision or term of this Declaration to the extent reasonably necessary to comply with the Utah Lot Ownership Act and the requirements concerning planned unit developments of prospective Institutional First Mortgagees, or to equitably adjust the rights and obligations of Owners and Mortgagees in the annexed property with respect to the rights and obligations of Owners and Mortgagees in the balance of the Development, as Declarant may determine in its sole discretion.

d. Any Lots, Common Areas and facilities or other structures to be erected on a portion of the Additional Land added to the Development will be constructed in a workmanlike manner.

e. Assuming that all of the Additional Land is added to the Development, the maximum number of Lots which may be created on the Additional Land is Forty (40). There are no restrictions governing the size or adequacy of recreational facilities which may be constructed on the Additional Land.

6. Contents of Supplementary Declaration. The supplements to this Declaration by which all or portions of the Additional Land shall be added to the Development shall contain the following information for that portion of the Additional Land being added to the Development:

a. Each supplement shall be consecutively titled in a numeric fashion; i.e., "First Supplement to

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Declaration of Covenants, Conditions and Restrictions for Phases 4, 5 and 6 of RIDGEMONT, a Planned Residential Unit Development";

b. Data sufficient to identify this Declaration and the Plat respecting that portion of the Additional Land being added to the Development;

c. The legal description of the portion of the Additional Land being added to the Development;

d. A statement that such portion of the Additional Land shall thereafter be held, transferred, sold, conveyed and occupied subject to the covenants, conditions, restrictions, easements, charges and liens set forth in this Declaration, as the same may be amended or supplemented in accordance with its terms;

e. A statement of the resulting number of Lots in the Development as a result of the addition of the portion of the Additional Land being added to the Development by the recordation of the Supplemental Declaration;

f. A form for conveyancing the Lots situated in that portion of the Additional Land being added to the Development, similar to the form for conveyancing set forth in Section 9 of Article II of this Declaration; and

g. Such other matters as Declarant may deem to be necessary, desirable or appropriate.

Upon the recordation of any supplement referred to in this Article XI, it shall automatically supplement this Declaration and any supplements previously recorded. At any point in time, the Declaration for the Development shall consist of this Declaration, as amended by all amendments implemented pursuant to Article XII of this Declaration, and as expanded by all supplements recorded pursuant to the terms hereof.

7. No Obligation to Expand. Except to the extent specifically indicated herein, this Declaration is not intended, and shall not be construed so as, to impose upon Declarant any obligation to:

a. Add to the Development any or all of the Additional Land;

b. Create or construct any Lots or Common Areas or facilities;

c. Carry out in any particular way or within any particular time any development or addition to the Development which may be undertaken; or

d. Take any particular action with respect to any portion of the Additional Land. Except to the extent specifically indicated herein, no provision of this Declaration concerning anything that is or is not to occur with respect to the Additional Land or any portion thereof shall be binding as to such of the Additional Land as is never added to the Development.

XII. AMENDMENTS

1. Amendment or Revocation Before Close of First Sale. At any time before the close of the first sale of a Lot to a purchaser other than Declarant, Declarant and any Mortgagee of record may, by executing an appropriate instrument, amend or revoke this Declaration. Further, before the first closing of a sale of a Lot in any subsequent phase of the Development to a purchaser other than Declarant, the Declarant and any Mortgagee of record may, by following the above procedure, amend or revoke any Supplemental Declaration recorded pursuant to Article XI of this Declaration for that subsequent phase. The executed instrument shall be acknowledged and recorded in the Office of the County Recorder of Weber County, Utah.

2. Amendments by Owners After Close of First Sale. At any time after the close of the first sale of a Lot to a purchaser other than Declarant, this Declaration may be amended by the vote or written consent of Owners representing not less than fifty-one percent (51%) of the voting power of each class of Members. If only one class of membership exists at the time an amendment is proposed, then it must be approved by not less than sixty-seven percent (67%) of the voting power of the Association. Notwithstanding any contrary provision in this Section 2, the percentage of the voting power necessary to amend a specific clause or provision of this Declaration shall not be less than the percentage of affirmative votes prescribed for action to be taken under that clause or provision.

3. Effective Date of Amendments. An amendment becomes effective after (i) the approval of the required percentage of Members, if any, has been given, (ii) that fact has been certified in a writing executed and acknowledged by Declarant in the case of an amendment authorized under Section 1 hereinabove or by the President of the Association in the case of an amendment authorized by Section 2 hereinabove, and (iii) the writing has been recorded in the Office of the County Recorder of Weber County, Utah.

4. Amendments Pursuant to Court Order. If this Declaration requires a proposed amendment to be approved by the affirmative vote of a specified percentage [exceeding fifty percent (50%)] of the total voting power of the Association or of Members casting a specified percentage [exceeding fifty

BOOK 1545 PAGE 439

percent (50%) of the votes in more than one class (a "supermajority") and more than fifty percent (50%) but less than the required supermajority of the votes approve the amendment, the Association or any Member may petition the District Court in the jurisdiction where the Property is located for an order reducing the percentage of the affirmative votes necessary for the amendment or approving the amendment. If such an order is issued, the amendment shall be acknowledged by the President of the Association, who shall have the amendment and the court order recorded in the Office of the County Recorder of Weber County, Utah. Upon recordation, the amended provision or provisions of this Declaration shall have the same force and effect as if the amendment were adopted in compliance with every requirement imposed by this Declaration and the other Governing Instruments. Within a reasonable time after recordation, the Association shall mail a copy of the amendment and a statement regarding the amendment to each Member.

XIII. GENERAL PROVISIONS

1. Term. The provisions of this Declaration shall continue in effect for a term of sixty-two (62) years from the date of execution. Thereafter, it shall be automatically extended for successive periods of five (5) years each, unless the Association decides to terminate it.

2. Effective Date. This Declaration, any amendment or supplement hereto, and any amendment of any Plat shall take effect upon its being filed for record in the Office of the County Recorder of Weber County, Utah.

3. Nonwaiver of Remedies. Each remedy provided for in this Declaration is separate, distinct and nonexclusive. Failure to exercise a particular remedy shall not be construed as a waiver of the remedy.

4. Severability. The provisions of this Declaration shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any one provision shall not affect the validity or enforceability of any other provision.

5. Binding. This Declaration, as well as any amendments and any valid actions or directives made pursuant hereto, shall be binding on the Declarant and the Owners and their heirs, grantees, tenants, successors and assigns.

6. Declarant's Rights Assignable. All of the rights of Declarant under this Declaration may be assigned or transferred, either by operation of law or through a voluntary conveyance, transfer or assignment.

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7. Interpretation. The provisions of this Declaration shall be liberally construed and interpreted to effectuate its purpose of creating a uniform plan for the development and operation of a planned residential unit development. Failure to enforce any provision of this Declaration shall not constitute a waiver of the right to enforce that provision or any other provision of this Declaration.

8. Limitation of Liability. The liability of any Owner for performance of any of the provisions of this Declaration shall terminate upon sale, transfer, assignment or other divestment of the Owner's entire interest in his or her Lot with respect to obligations arising from and after the date of the divestment.

9. Fair Housing. Neither Declarant nor any Owner shall, either directly or indirectly, forbid the conveyance, encumbrance, renting, leasing or occupancy of the Owner's Lot to any person on the basis of race, color, sex, religion, ancestry or national origin.

10. Number and Headings. As used in this Declaration, the singular shall include the plural unless the context requires the contrary. The headings are not a part of this Declaration and shall not affect the interpretation of any provision.

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IN WITNESS WHEREOF, the undersigned has executed this instrument this 28th day of June, 1988.

DECLARANT

Opheikens and Company, Inc.,
A Utah Corporation.

By *Orluff Opheikens*
Its President

Attest:

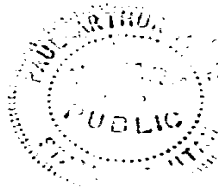
STATE OF UTAH)
) ss
COUNTY OF WEBER)

On this 28th day of June, 1988, before me, a notary public, personally appeared ORLUFF A. OPHEIKENS, personally known to me to be the person who executed the within instrument as President of OPHEIKENS AND COMPANY, INC., the corporation named therein, and acknowledged to me that the corporation executed it.

Paul Arthur Price
Notary Public

[Official Seal]

OFFICIAL SEAL
PAUL ARTHUR PRICE
Notary Public
County of Salt Lake, Utah
My Comm. Expires Nov. 13, 1990



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EXHIBIT " A "
OF
DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS FOR PHASES 4, 5 & 6
OF
RIDGEMONT,
A PLANNED RESIDENTIAL UNIT
DEVELOPMENT

(Legal Description of the Property)

Legal Description - Ridgemont Phase 4

The following-described parcel of real property located in the City of Washington Terrace, County of Weber, State of Utah:

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A part of the Southeast Quarter of Section 17, Township 5 North, Range 1 West, SALT LAKE BASE AND MERIDIAN, U.S. Survey: Beginning at the most Westerly corner of Ridgemont, a planned residential unit development, Phase 3, being 1514.65 feet North $0^{\circ} 26'$ East along the Section line and 1435.25 feet North $89^{\circ} 34'$ West and 459.36 feet North $29^{\circ} 30'$ West along the Westerly line of 300 East Street to the Northeast corner of Ridgemont, a planned residential unit development, Phase 2, and 72.20 feet South $62^{\circ} 06'$ West and 304.87 feet South $76^{\circ} 11'$ West and 133.25 feet North $85^{\circ} 53'$ West; and 205.00 feet South $36^{\circ} 39' 30''$ West along the Northerly line of Ridgemont, a planned residential unit development, Phases 2 and 3, from the Southeast corner of said Section 17, and running thence Southerly along the Westerly line of said Phase 3 the following two (2) courses: South $53^{\circ} 20' 30''$ East 102.70 feet and South $29^{\circ} 30'$ East 161.77 feet; thence South $25^{\circ} 31' 25''$ West 127.72 feet; thence North $64^{\circ} 28' 35''$ West 62.43 feet; thence South $73^{\circ} 01' 38''$ West 198.12 feet; thence South $65^{\circ} 31' 16''$ W 181.21 feet to the Easterly line of Southridge Subdivision No. 9 in Washington Terrace City, Weber County, Utah; thence North $29^{\circ} 30'$ West 119.97 feet along said Easterly line; thence North $29^{\circ} 45' 30''$ East 28.27 feet; thence North $62^{\circ} 00' 30''$ East 242.94 feet; thence North $36^{\circ} 39' 30''$ East 224.89 feet to the point of beginning. (Acres: 2.23)

07-300-0001 to 0015

EXHIBIT "A"

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EXHIBIT " B "
OF
DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS FOR PHASES 4,5 & 6
OF
RIDGEMONT,
A PLANNED RESIDENTIAL UNIT
DEVELOPMENT

(Legal Description of Additional Land)

Legal Description - Additional Land

The following-described parcel of real property, located in the City of Washington Terrace, County of Weber, State of Utah:

A part of the Southeast Quarter of Section 17, Township 5 North, Range 1 West, Salt Lake Base and Meridian, U.S. Survey:

000-1545 P&R 444

Beginning at a point on the Northernly line of 5500 South Street 422.66 feet South 60° 30' West from the intersection of the Westerly right-of-way line of 300 East Street and the Northernly right-of-way line of 5500 South Street, said point being North 0° 26' East 1514.65 feet along the Section line; and North 89° 34' West 1435.25 feet; and North 29° 30' West 33.00 feet; and South 60° 30' West 422.66 feet from the Southeast corner of said Section 17; running thence South 60° 30' West 714.36 feet along the North line of 5500 South Street to the Southeast corner of Lot 219, Southridge Subdivision No. 9, Washington Terrace City, Weber County, Utah; thence North 29° 30' West 282.89 feet along the Easterly line of said Southridge Subdivision No. 9; thence North 65° 31' 16" East 181.21 feet; thence North 73° 01' 38" East 198.12 feet; thence South 64° 28' 35" East 62.43 feet; thence North 25° 31' 25" East 127.72 feet; thence North 29° 30' West 14.00 feet to the Southernmost corner of Ridgemont P.R.U.D., Phase No. 3, Washington Terrace City, Weber County, Utah; thence North 60° 30' East 200.00 feet along the Southerly line of said Ridgemont P.R.U.D., Phase No. 3 to the Westerly line of Ridgemont P.R.U.D. Phase No. 1, Washington Terrace City, Weber County, Utah; thence South 29° 30' East 260.00 feet along said Westerly line of Ridgemont P.R.U.D. Phase No. 1 to the point of beginning.

Contains 4.090 Acres

07-053-5034

EXHIBIT "B"

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EXHIBIT " C "
OF
DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS FOR PHASES 4, 5 & 6
OF
RIDGEMONT,
A PLANNED RESIDENTIAL UNIT
DEVELOPMENT

(Articles of Incorporation of RIDGEMONT 456)

As Secretary of the Board of Trustees
and Commercial Code of the Utah State
Department of Business Regulation
on the 24th day of May A.D. 1988
Corporate Documents Examiner Michael
Fees paid \$ 11.00

131502

RECEIVED

MAY 24 1988

68-1545-446

ARTICLES OF INCORPORATION
OF
RIDGEMONT 456

I. NAME

The name of the corporation is RIDGEMONT 456.

II. PURPOSES

This corporation is a nonprofit corporation organized under the Nonprofit Corporation laws of the State of Utah. The purposes of this corporation are:

1. To engage in any lawful act or activity for which a corporation may be organized under such laws;
2. To provide an owners association for the management, maintenance, preservation and architectural control of phases 4, 5 and 6 of Ridgemont, a Planned Residential Unit Development (the "Development"), located in the City of Washington Terrace, County of Weber, State of Utah, commonly known as Ridgemont Condominiums;
3. To promote the health, safety and welfare of the residents of the Development; and
4. To exercise all of the powers and privileges and to perform all of the duties and obligations of the corporation as set forth in a Declaration for the Development to be recorded in the Office of the County Recorder of Weber County, Utah, as such Declaration may be from time to time amended.

III. DURATION

The corporation shall continue in existence perpetually unless dissolved or otherwise terminated according to law.

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1545 4:17

IV. MEMBERS

The corporation shall have Members, whose rights shall become vested immediately upon recordation in the Office of the County Recorder of Weber County, Utah of the instrument that vests in such Member all of the fee title to a Lot located in the Development. The corporation shall have two (2) classes of Members. The designation of such classes, the manner of appointment, the qualifications and rights of Members of each class, and any provisions for termination or forfeiture of membership rights shall be as provided in the corporation's Bylaws, as the same may from time to time be amended.

V. SHARES OF STOCK

No shares of stock evidencing membership in the corporation will be issued.

VI. TRUSTEES

The business and affairs of the corporation shall be governed by a Board of Trustees initially comprised of three (3) persons. The names and street addresses of the persons who are to serve as the initial Trustees are as follows:

ORLUFF A. OPHEIKENS	3520 Lincoln, #1 Ogden, Utah 84401
BRENT HALES	230 W. Lomond View Dr. North Ogden, UT 84414
BARBARA WHITLOCK	170 4th Street Ogden, Utah 84404


VII. PRINCIPAL OFFICE

The corporation's initial principal office shall be at 3520 Lincoln Avenue, Suite #1, Ogden, Utah 84401.

VIII. REGISTERED AGENT

(A) The registered agent of the corporation is ORLUFF A. OPHEIKENS, whose street address is 3520 Lincoln Avenue, Suite #1, Ogden, Utah 84401.

(B) I, ORLUFF A. OPHEIKENS, accept the within appointment as resident agent of the corporation named in these articles.



ORLUFF, A. OPHEIKENS

001-1545 449

The undersigned, who is the sole Incorporator of this corporation, has executed these Articles of Incorporation on April 14, 1988.

[Signature]
ORLUFF A. OPHEIKENS

Verification

I, ORLUFF A. OPHEIKENS, declare under penalty of perjury that I am the person named as Incorporator in the foregoing Articles of Incorporation of RIDGEMONT 456 and that I executed the same.

Dated: April 14, 1988

[Signature]
ORLUFF A. OPHEIKENS

STATE OF UTAH)
) ss
COUNTY OF WEBER)

On the 14th day of April, 1988 before me, a Notary Public, personally appeared ORLUFF A. OPHEIKENS, known to me to be the person who executed the within Articles of Incorporation of RIDGEMONT 456 and acknowledged to me that he executed the same.

WITNESS MY HAND AND OFFICIAL SEAL

My Commission Expires:

[Signature]
Residing *at Lake County*

100-1545-419

EXHIBIT " D "
OF
DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS FOR PHASES 4, 5 & 6
OF
RIDGEMONT,
A PLANNED RESIDENTIAL UNIT
DEVELOPMENT

(Bylaws of RIDGEMONT 456)

**BYLAWS OF
RIDGEMONT 456,
A UTAH NONPROFIT CORPORATION**

ARTICLE I. INTRODUCTION

1.01. Name. The name of the corporation is RIDGEMONT 456, hereinafter referred to as "Association."

1.02. Principal Office. The principal office of the Association is located at 3520 Lincoln Avenue, Suite #1, Ogden, Utah 84401. The Board of Trustees is hereby granted full power to change the principal office of the Association from one location to another within the State of Utah.

1.03. Application. These Bylaws are applicable to Phases 4, 5 and 6 of the planned residential unit development known as RIDGEMONT CONDOMINIUMS (the "Development"), located at 5500 South Street and 300 East Street, in the City of Washington Terrace, County of Weber, State of Utah. These Bylaws are also applicable to all Members of the Association and all tenants, employees and other persons who use the facilities of the Development in any manner.

1.04. Definitions. Unless otherwise specified in these Bylaws, the definitions set forth in Article I of the declaration for the Development (the "Declaration") recorded or to be recorded in the Office of the County Recorder of Weber County, Utah, apply to these Bylaws.

1.05. Membership Rights. The qualification for membership provisions of Section 2 of Article III of the Declaration are hereby incorporated by reference.

ARTICLE II. MEETINGS OF MEMBERS

2.01 Place of Meetings. All meetings of the Members shall be held at a place designated by the Board. This meeting place shall be within the Development or as close to it as possible. If no meeting place is designated, the meetings shall be held at the principal office of the Association. After January 1, 1989, no meeting of the Members shall, unless unusual conditions exist, be held outside the County of Weber, State of Utah.

2.02. Annual Meetings. The first meeting of the Members of the Association shall be held within six months after the closing of the first sale of a Lot within the Development. Thereafter, the annual meeting of the Members shall be held on

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the second Saturday of February of each succeeding calendar year at the hour of 7:30 P.M. If the day for the annual meeting of the Members is a legal holiday, the meeting shall be held at the same hour on the next Saturday that is not a legal holiday.

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2.03. Special Meetings. Special meetings of the Members may be called for any lawful purpose by a majority of a quorum of the Board, the President of the Association, or by a written request signed by Members representing at least twenty percent of the total voting power of the Association. The special meeting shall be held not less than fifteen nor more than ninety days after adoption of the resolution or receipt of the request. Only the business stated in the notice of meeting given pursuant to Section 2.04 of these Bylaws shall be transacted at the special meeting.

2.04. Notice of Meetings. The Secretary of the Association shall give written notice of any Members' meeting to each Member of record. Except as otherwise provided in this Section 2.04, the notice shall be given at least ten but not more than ninety days before the meeting, by first class mail or by personal delivery. The notice shall be addressed to the Member at the address appearing on the books of the Association or at the address supplied by the Member in writing for this purpose. If there is no such address, notice shall be posted at the principal office of the Association or by publication at least once in a newspaper of general circulation in Weber County, Utah. The notice shall state the place, date and time of the meeting. If Trustees are to be elected at the meeting, the notice shall include the names of all those who are nominees at the time the notice is given. In the case of an annual meeting, the notice shall also state those matters that the Board, at the time the notice is given, intends to present for action by the Members. In the case of a special meeting, the following additional notice requirements apply: (i) the notice shall state those matters that the Board, at the time the notice is given, intends to present for action by the Members; and (ii) if the special meeting is called by Members pursuant to Section 2.03 of these Bylaws, the notice shall be given within twenty days after receipt of the request for the meeting. If such twenty day requirement is not satisfied, the Members who called the meeting may give the notice.

2.05. Waiver of Notice or Consent of Absentees. The transactions of any meeting of Members, however called and noticed, shall be as valid as though taken at a duly called, noticed and held meeting if: (i) a quorum is present either in person or by proxy; and (ii) either before or after the meeting, each of the Members not present in person or by proxy signs a written waiver of notice, or a consent to the holding of the meeting, or an approval of the minutes of the meeting. Any such waiver, consent or approval shall be filed with the corporate records or made a part of the minutes of the meeting.

2.06. Voting Rights. The voting of membership provision set forth in Section 4 of Article III of the Declaration is hereby incorporated by reference.

2.07. Record Date of Membership. The Board shall fix, in advance, a record date or dates for the purpose of determining the Members entitled to notice of and to vote at any meeting of Members. The record date for notice of a meeting shall not be more than ninety nor less than fifteen days before the date of the meeting. The record date for voting shall not be more than sixty days before the date of the meeting. The Board may also fix, in advance, a record date for the purpose of determining the Members entitled to exercise any rights in connection with any other action. Any such date shall not be more than sixty days prior to the action.

2.08. Quorum. At any meeting, the presence either in person or by proxy of Members entitled to cast at least fifty-one percent of the total voting power of the Association shall constitute a quorum for any action except as otherwise provided in the Articles, these Bylaws, or the Declaration. The Members present at a duly called or held meeting at which a quorum is present may continue to transact business until adjournment notwithstanding the withdrawal of enough Members to leave less than a quorum, if the action taken, other than adjournment, is approved by at least a majority of the number of Members required to constitute a quorum. If a quorum is not present at any time at a duly called meeting, a majority of those Members present in person or by proxy may adjourn the meeting to a time not less than five days nor more than thirty days from the meeting date, but no other business may be transacted. An adjourned meeting may be held without written notice, provided that notice is given by announcement at the original meeting. If no such announcement is made, or if the selected date is changed after adjournment, notice of the time and place shall be given to Members in the manner provided in Section 2.04 of these Bylaws. The quorum for the adjourned meeting shall be thirty-four percent of the total voting power of the Association.

2.09. 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 of the Association. Every proxy shall be revocable and shall automatically cease upon conveyance of its maker's membership, or upon receipt of written notice by the Secretary of the maker's death or judicially declared incapacity. No proxy shall be valid after the expiration of eleven months from its execution unless otherwise provided in the proxy. However, the maximum term of any proxy shall be three years from its date of execution. The maker of the proxy may revoke it by delivering a written revocation to the Association, by executing a subsequent proxy and presenting it to the meeting, or by attending any meeting and voting in person.

Any revocable proxy covering any of the following matters that require a vote of the Members is not valid as to those matters unless it sets forth the general nature of the matter to be voted on:

- a. Removing a Trustee without cause, pursuant to Section 3.06(b) of these Bylaws;
- b. Filling Trustee vacancies pursuant to Section 3.07 of these Bylaws;
- c. Entering into or approving a contract or transaction between the Association and one or more of the Trustees, or between the Association and any entity in which one or more of the Trustees has a material financial interest;
- d. Amending the Articles or these Bylaws to repeal, restrict, create or expand proxy rights;
- e. Disposing of assets other than in the usual and regular course of corporate activities;
- f. Approving the terms of any merger involving the Association; or
- g. Electing to dissolve the Association.

2.10. Action Taken Without a Meeting. Any action that may be taken at a meeting of the Members, except for the election of Trustees, may be taken without a meeting provided the following ballot requirements are satisfied:

- a. The Association shall distribute a written ballot to every Member entitled to vote on the matter. The ballot shall be solicited in the same manner as provided in Section 2.04 of these Bylaws for the giving of notice of meetings of Members.
- b. The ballot shall set forth the proposed action, provide an opportunity to specify approval or disapproval of any proposal, provide a reasonable time within which to return the ballot, indicate the number of responses needed to meet the quorum requirement, and state the percentage of approvals necessary to pass the measure submitted.
- c. The proposed action shall be considered approved if:
 - (1) The number of votes cast by ballot within the specified time period equals or exceeds the quorum required to be present at a meeting authorizing the action; and

(2) The number of approvals equals or exceeds the number of votes that would be required for approval at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot.

d. No written ballot may be revoked.

2.11. Approval by Members Required by Statute. Any approval by the Members of the following proposals, other than unanimous approval by those entitled to vote, shall be valid only if the general nature of the approved proposal was stated in the notice of meeting or any waiver of notice of meeting:

a. Removing a Trustee without cause pursuant to Section 3.06(b) of these Bylaws;

b. Filling vacancies on the Board pursuant to Section 3.07 of these Bylaws;

c. Entering into or approving a contract or transaction between the Association and one or more of the Trustees, or between the Association and any entity in which one or more of the Trustees has a material financial interest;

d. Amending the Articles; or

e. Electing to dissolve the Association

ARTICLE III. BOARD OF TRUSTEES

3.01. Number. The affairs of the Association shall be managed and its duties and obligations performed by an elected Board of Trustees, consisting of three persons who shall, with the exception of the initial Trustees, be Members of the Association.

3.02. Nomination. Except in the case of the initial Trustees, nominations for election to the Board of Trustees may be made by any of the following:

a. A nominating committee appointed by the Board at least sixty days prior to an annual meeting of Members, provided the Board receives the committee's nomination or nominations at least thirty days prior to the annual meeting of Members;

b. A written petition signed within eleven months preceding the annual meeting by Members representing at least twenty percent of the voting power of the Association. The petition shall identify the nominee,

contain that person's written consent to serve as a Trustee, and be delivered to the Secretary of the Association at least thirty days prior to the annual meeting; or

c. Any Member who is present in person, or by the proxy of any Member who is present by proxy, at the annual meeting of Members at which the Trustee is elected.

3.03. Election. The initial Trustees shall be those persons named in the Articles, who shall serve until the first annual meeting of the Members. At the first annual meeting of the Association, the Members shall fill, by election, all positions on the Board of Trustees. Subsequent elections shall also be held at the annual meetings. However, if an annual meeting is not held or does not include an election, the election may be held at a special meeting of Members called for that purpose. Voting for Trustees shall be by secret written ballot. At an 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 these Bylaws. Each Member entitled to vote on the election may cumulate his or her votes and give one candidate a number of votes equal to the number of Trustees to be elected multiplied by the number of votes to which the Member is entitled, or distribute the Member's votes on the same principle among as many candidates as the Member thinks fit; provided however that no Member shall be entitled to cumulate votes for a candidate or candidates unless the candidate's name or candidates' names have been placed in nomination prior to voting and a Member has given notice at the meeting prior to the voting of the Member's intention to cumulate votes. If any Member has given this notice, all Members may cumulate their votes for candidates in nomination. The persons receiving the highest number of votes shall be elected.

3.04. Special Election Procedure. Notwithstanding any other provision of these Bylaws and commencing with the first election of Trustees at an annual meeting of the Association, for so long as a majority of the voting power of the Association resides in Declarant, at least one Trustee shall have been elected solely by the votes of Members other than Declarant. If, at any such election, Members other than Declarant do not have a sufficient percentage of the voting power to satisfy that requirement, the one position on the board shall be filled by the candidate receiving the highest number of votes cast by Members other than Declarant. Any remaining positions on the Board shall be filled in accordance with normal voting procedures.

3.05. Term. Each Trustee shall hold office until the election of his or her successor or until the Trustee's death, removal, resignation or judicial adjudication of mental

incompetence. The term of office of the two Trustees receiving the highest number of votes at the first annual meeting shall be two years and the term of office of the remaining Trustee shall be one year. Thereafter, at each annual meeting, any vacancies on the Board created by death, resignation, removal, judicial adjudication of mental incompetence, or expiration of term shall be filled. The term of office of each Trustee elected to fill a vacancy created by the expiration of the term of office of the preceding Trustee shall be two years. The term of office of any Trustee elected or appointed to fill a vacancy created by any event other than the expiration of the predecessor Trustee's term shall be the balance of the unserved term of the predecessor. Any person serving as a Trustee may be re-elected and there shall be no limitation on the number of terms a Trustee may serve.

3.06. Removal. Trustees may be removed as follows:

a. The Board may declare vacant the office of a Trustee on the occurrence of any of the following events:

- (1) The Trustee is declared of unsound mind by a final order of court;
- (2) The Trustee is convicted of a felony;
- (3) The Trustee has failed to attend three or more consecutive meetings of the Board.

b. One or more Trustees may be removed prior to the expiration of their terms, without cause, at an annual or special meeting of Members. Any removal without cause shall be approved by (i) a majority of the total voting power of the Association for so long as the Development consists of fewer than 50 Lots, or

(ii) by the vote of Members representing a majority of a quorum of Members if the Development consists of more than 50 Lots. Notwithstanding the foregoing, unless the entire Board is removed from office by the vote of the Members, an individual Trustee shall not be removed prior to the expiration of his or her term of office if the number of votes cast against the removal would be sufficient to elect the Trustee if voted cumulatively at an election at which the same number of votes were cast and the entire number of Trustees authorized at the time of the Trustee's most recent election were then being elected. A Trustee who has been elected to office solely by the votes of Members other than Declarant as required by Section 3.04 of these Bylaws may be removed from office prior to the expiration of his or her term only by the vote of at least fifty-one percent of the voting power of

Members other than Declarant. If a Trustee is removed at a meeting, a new Trustee may be elected at the same meeting.

3.07. Vacancies. Any vacancy on the Board caused by the death, resignation or adjudication of mental incompetence of a Trustee shall be filled by the remaining Trustees. The successor shall serve for the unexpired term of his or her predecessor. The Board shall not fill a vacancy on the Board caused by the removal of a Trustee except with the vote or written assent of a majority of each class of Members.

3.08. Compensation. A Trustee shall not receive any compensation for any service he or she may render to the Association; provided, however, that a Trustee may be reimbursed for actual out-of-pocket expenses reasonably incurred by the Trustee in the performance of his or her duties.

3.09. Powers and Duties. The Board's powers and duties shall include, but shall not be limited to, the following:

- a. Enforcement of the applicable provisions of the Declaration, the Articles, these Bylaws and any other instruments governing the ownership, management and control of the Development (the "Governing Instruments").
- b. Payment of taxes and assessments that are, or could become, a lien on all or a portion of the Common Areas.
- c. Contracting for casualty, liability and other insurance on behalf of the Association.
- d. Contracting for goods and services for the Common Areas, facilities and interests of the Association, subject to the limitations set forth in Section 3.10(a) of these Bylaws.
- e. Delegation of its powers to any committees, Officers or employees of the Association expressly authorized by the Governing Instruments.
- f. Preparation of budgets and financial statements for the Association as prescribed in the Governing Instruments.
- g. Formulation of Rules and Regulations for the use and operation of the Common Areas and facilities owned or controlled by the Association.
- h. Initiation and execution of disciplinary proceedings against Members for violations of the Governing Instruments in accordance with the procedures set forth in the Governing Instruments.

i. Entering any Lot or improvement on a Lot to perform necessary construction, maintenance or emergency repair work for the benefit of the Common Areas or the Members in the aggregate.

j. Election of Officers of the Association.

k. Filling of vacancies on the Board of Trustees except for a vacancy created by the removal of a Trustee.

3.10. Limitations on Powers. Notwithstanding the provisions of Section 3.09, the Board shall be prohibited from taking any of the following actions, except with the vote or written assent of a majority of each class of Members or, when Class B Membership no longer exists, with the approval of a majority of the total voting power of the Association as well as the approval of a majority of the total voting power residing in Members other than Declarant:

a. Entering into a contract with a third person under which the third person will furnish goods and services for the Common Areas or the Association for a term longer than one year, with the following exceptions:

(1) A contract with a public utility if the rates charged are regulated by a public utilities commission, provided that the term shall not exceed the shortest term for which the utility will contract at the regulated rate;

(2) Prepaid casualty and/or liability insurance of not more than three years duration, provided that the policy provides for short rate cancellation by the insured;

(3) Lease agreements for furniture, fixtures or equipment of not more than five years duration, provided that the lessor under the agreement is not an entity in which the Declarant has a direct or indirect ownership interest; and

(4) Agreements for cable television services and equipment or satellite dish television services and equipment for a term of up to five years, provided that the supplier is not an entity in which the Declarant has a direct or indirect ownership interest.

b. Incurring aggregate expenditures for capital improvements to the Common Areas in any fiscal year in excess of five percent of the budgeted gross expenses of the Association for that fiscal year.

c. Selling during any fiscal year property of the Association having an aggregate fair market value in excess of five percent of the budgeted gross expenses of the Association for that fiscal year.

d. Paying compensation to Trustees or to Officers of the Association for services rendered in the conduct of the Association's business; provided, however, that the Board may reimburse a Trustee or Officer for expenses reasonably incurred in carrying on the business of the Association.

e. Filling a vacancy on the Board of Trustees created by the removal of a Trustee.

ARTICLE IV. MEETINGS OF TRUSTEES

4.01. Regular Meetings. Regular meetings of the Board of Trustees shall be held at least semiannually, at a time and place within the Development fixed by resolution of the Board. Notice of the time and place of the meeting shall be posted at a prominent place or places within the Common Areas and shall be communicated to the Trustees not less than fourteen days prior to the meeting; provided, however, that notice need not be given to any Trustee who has signed a waiver of notice or a written consent to holding of the meeting.

4.02. Special Meetings. Special meetings of the Board shall be held when called by written notice signed by the President of the Association or by any two Trustees other than the President. The notice shall specify the time and place of the meeting and the nature of any special business to be considered. Notice of any special meeting must be given to each Trustee not less than three days prior to the date fixed for the meeting; provided, however, that notice need not be given to any Trustee who has signed a waiver of notice or a written consent to holding of the meeting. A copy of the notice shall also be posted in a prominent place or places in the Common Areas of the Development, if practicable.

4.03. Quorum. A majority of the Board shall constitute a quorum and, if a quorum is present, the decision of a majority of the Trustees present shall be the act of the Board.

4.04. Open Meetings. Regular and special meetings of the Board shall be open to all Members of the Association; provided, however, that Association Members who are not on the Board may not participate in any deliberation or discussion unless expressly authorized to do so by the vote of a majority of a quorum of the Board.

4.05. Executive Session. The Board may, with the approval of a majority of a quorum, adjourn a meeting and reconvene in executive session to discuss and vote upon personnel matters, litigation in which the Association is or may become involved, and orders of business of a sensitive nature. The nature of any and all business to be considered in executive session shall first be announced in open session.

4.06. Adjournment. A majority of the Trustees present, whether or not a quorum is present, may adjourn any meeting to another time and place. If the meeting is adjourned for more than twenty-four hours, notice of the adjournment shall be given, prior to the time of the adjourned meeting, to the Trustees who were not present at the time of the adjournment.

4.07. Action Taken Without a Meeting. The Board may take actions without a meeting if all of the Trustees consent in writing to the action to be taken. If the Board resolves by unanimous written consent to take action, an explanation of the action taken shall be posted at a prominent place or places within the Common Areas within ten days after the written consents of all Trustees have been obtained.

ARTICLE V. OFFICERS

5.01. Enumeration of Officers. The Officers of the Association shall be a President, a Vice President, a Secretary and a Treasurer. The Board may appoint additional officers pursuant to Article X of these Bylaws. Any number of offices may be held by the same person.

5.02. Appointment and Term. The Officers of the Association, except those Officers appointed in accordance with Article X of these Bylaws, shall be elected annually by the Board. Any vacancies shall be filled by the Board at any time, not necessarily on an annual basis, that it deems proper. Each Officer shall hold his or her office at the pleasure of the Board.

5.03. Resignation and Removal. The Board may remove any Officer from office either with or without cause. An Officer may resign at any time by giving written notice to the Board, the President or the Secretary. The resignation shall take effect at the date of receipt of the notice or at any later time specified in the notice. Unless otherwise specified in the notice, acceptance of the resignation by the Board shall not be necessary to make it effective.

5.04. Compensation. An Officer shall not receive any compensation for any service he or she may render to the Association; provided, however, that any Officer may be

reimbursed for actual out-of-pocket expenses reasonably incurred by the Officer in the performance of his or her duties.

ARTICLE VI. PRESIDENT

6.01. Election. At the first meeting of the Board immediately following the first annual meeting of the Members, the Board shall elect one Trustee to act as President.

6.02. Duties. The President shall:

a. Preside over all meetings of the Members and of the Board.

b. Sign as President all deeds, contracts and other written instruments that have been approved by the Board, unless the Board, by duly adopted resolution, authorizes the signature of a lesser Officer.

c. Call meetings of the Board whenever he or she deems it necessary, in accordance with rules and notice requirements imposed by the Board and the Governing Instruments.

d. Have, subject to the advice of the Board, general supervision, direction and control of the affairs of the Association.

e. Discharge any other duties required of him or her by the Board.

ARTICLE VII. VICE PRESIDENT

7.01. Election. At the first meeting of the Board immediately following the first annual meeting of the Members, the Board shall elect one Trustee to act as Vice President.

7.02. Duties. The Vice President shall:

a. Act in the place and stead of the President in the event of his or her absence, inability or refusal to act; and

b. Exercise and discharge any other duties required of him or her by the Board. In connection with any such additional duties, the Vice President shall be responsible to the President.

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ARTICLE VIII. SECRETARY

8.01. Election. At the first meeting of the Board immediately following the first annual meeting of the Members, the Board shall elect a Secretary, who need not also be a Trustee.

8.02. Duties. The Secretary shall:

- a. Keep a record of all meetings and proceedings of the Board and of the Members;
- b. Keep the seal of the Association, if any, and affix it on all papers requiring the seal;
- c. Serve all required notices of meetings of the Board and the Members;
- d. Keep current records showing the names and addresses of all Members; and
- e. Sign as Secretary all deeds, contracts and other written instruments that have been approved by the Board, if the instruments require a second Association signature and the Board has not passed a resolution authorizing another Officer to sign in the place and stead of the Secretary.

ARTICLE IX. TREASURER

9.01. Election. At the first meeting of the Board immediately following the first annual meeting of the Members, the Board shall elect one Trustee to act as Treasurer.

9.02. Duties. The Treasurer shall:

- a. Receive and deposit all of the funds of the Association in any bank or banks selected by the Board;
- b. Be responsible for and supervise the maintenance of books and records to account for Association funds and other Association assets;
- c. Disburse and withdraw Association funds in the manner specified by the Board; and
- d. Prepare and distribute the financial statements for the Association required by the Declaration.

ARTICLE X. SUBORDINATE OFFICERS

10.01. Appointment. The Board may appoint, at any time, any subordinate Officers that the business of the Association may require.

10.02. Duties. The Board shall prescribe the term of office, authority and duties of subordinate Officers. These duties may include the right to act in the place and stead of any Officer other than the President and the Treasurer.

ARTICLE XI. BOOKS AND RECORDS

11.01. Required Books and Records. The Association shall maintain at its principal office:

- a. Copies of the Governing Instruments, as last amended;
- b. Adequate and correct books and records of account;
- c. Written minutes of the proceedings of its Members, of its Board and of committees of its Board; and
- d. A membership register containing the name, address and class of membership of each Member.

11.02. Inspection Rights. The above books and records shall be made available for inspection as follows:

- a. Any Member shall have the right to inspect the Governing Instruments at the principal office of the Association at any reasonable time during office hours.
- b. Any Member shall have the right to inspect the books and records described in Section 11.01(b)-(d) and to copy them at any reasonable time and for a purpose reasonably related to his or her interest as a Member. This right is subject to the power of the Board to set reasonable times for inspection, notice requirements, and fees to cover the cost of making copies of the documents requested by a Member.
- c. Every Trustee shall have the absolute right to inspect all books, records and documents of the Association and the physical properties owned or controlled by the Association at any reasonable time. The right of inspection by a Trustee includes the

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right to make extracts and copies of documents.

ARTICLE XII. NONLIABILITY AND INDEMNIFICATION

12.01. Definition of Agent. For purposes of this Article, "Agent" means any present or former Trustee or Officer or any other employee or agent of the Association.

12.02. Nonliability. Except as provided by law, no right, power or responsibility conferred on the Board or the Architectural Committee by the Governing Instruments shall be construed as a duty, obligation or disability charged upon any Agent. No Agent shall be liable to any party (other than the Association or a party claiming in the name of the Association) for injuries or damage resulting from the Agent's acts or omissions within what the Agent reasonably believed to be the scope of his or her Association duties ("Official Acts"), except to the extent that the injuries or damage result from the Agent's willful or malicious misconduct. No Agent shall be liable to the Association (or to any party claiming in the name of the Association) for injuries or damage resulting from the Agent's Official Acts, except to the extent that the injuries or damage result from the Agent's negligence or willful or malicious misconduct.

12.03. Indemnification. The Association shall pay all expenses actually and reasonably incurred by, and satisfy any judgment or fine levied against, any Agent as a result of any action or threatened action against the Agent to impose liability on the Agent for his or her Official Acts, provided that:

- a. The Board determines that the Agent acted in good faith and in a manner the Agent reasonably believed to be in the best interests of the Association;
- b. In the case of a criminal proceeding, the Board determines that the Agent had no reasonable cause to believe his or her conduct was unlawful; and
- c. In the case of an action or threatened action by or in the right of the Association, the Board determines that the Agent acted with the care (including reasonable inquiry) that an ordinarily prudent person in a like position would use under similar circumstances.

12.04. Approval by Board. Any determination of the Board required under this Article must be approved by a majority vote of a quorum consisting of Trustees who are not parties to the

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action or threatened action giving rise to the indemnification. If the Board fails or refuses to make any such determination, the determination may be made by the vote or written consent of a majority of a quorum of the Members, provided that the Agent to be indemnified shall not be entitled to vote.

12.05. Payments. Payments made pursuant to this Article shall include amounts paid and expenses incurred in settling the action or threatened action. This Article shall be construed to authorize payments and indemnification to the fullest extent now or hereafter permitted by applicable law.

12.06. Insurance. The Association may purchase and maintain insurance in behalf of its Agents to the extent and under the circumstances provided in the Declaration.

ARTICLE XIII. AMENDMENTS

13.01. Amendment of Bylaws. So long as a two-class voting system is in effect, any amendment of these Bylaws shall require the vote or written consent of Members representing fifty-one percent of a quorum of Members of each class. After conversion of the Class B Membership to Class A Membership, these Bylaws may be amended by the vote or written consent of (i) fifty-one percent of a quorum and (ii) fifty-one percent of the votes of Members other than the Declarant. Notwithstanding the foregoing, the percentage of a quorum or of the voting power of the Association or of Members other than the Declarant necessary to amend a specific clause or provision in these bylaws shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause or provision.

13.02. Restatement. Upon any amendment of these Bylaws in accordance with this Article, the Secretary of the Association shall cause the written bylaws to be restated in their entirety, giving effect to such amendment. Each restatement of the Bylaws shall be consecutively numbered; viz, "First Amended and Restated Bylaws of Ridgemont 456, a Utah Nonprofit Corporation."

ARTICLE XIV. TAX-EXEMPT STATUS

14.01. Tax-Exempt Status. The Board and Members of the Association shall conduct the business of the Association in such a manner that the Association shall qualify and be considered an organization exempt from federal and state income taxes pursuant to Internal Revenue Code Section 528 and Section 59-14A-25(b) UTAH CODE ANN., as the same may from time to time be amended.

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14.02. Filing. The Board shall file or have filed any annual election for tax-exempt status that is required under federal or state law and shall cause the Association to comply with the federal and state statutes, rules and regulations pertaining to those exemptions.

CERTIFICATE OF SECRETARY
OF
RIDGEMONT 456,
A Utah Nonprofit Corporation

I hereby certify that I am the duly elected and acting Secretary of the above Corporation and that the foregoing Bylaws, comprising seventeen pages, constitute the Bylaws of the Corporation as duly adopted at a meeting of the Board of Trustees of the Corporation held on June 28, 1988.

Dated: June 28, 1988

Barbara Whitlock
Barbara Whitlock, Secretary