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AMENDED AND RESTATED DECLARATION
OF
COVENANTS, CONDITIONS AND RESTRICTIONS
AND RESERVATION OF EASEMENTS
FOR
BELMONT TERRACE
A PLANNED UNIT DEVELOPMENT

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**AMENDED AND RESTATED
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS AND
RESERVATION OF EASEMENTS
FOR
BELMONT TERRACE
A PLANNED UNIT DEVELOPMENT**

THIS FIRST AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS of Belmont Terrace is made on the date evidenced below by the Belmont Terrace Homeowners Association, Inc. a domestic nonprofit corporation (the "Association"), established to govern the common affairs of the Association's members, protect property values and enforce the covenants, conditions, restrictions and rules of the Association.

This First Amended and Restated Declaration of Covenants, Conditions and Restrictions supersedes and replaces the Declaration of Covenants, Conditions and Restrictions of the Belmont Terrace recorded May 26, 1980, as Entry No. 3416277, in Book 5075 beginning at Page 940, records of the Salt Lake County Recorder (the "Original Declaration"), in its entirety, including any amendments or supplements thereto.

Pursuant to Article XV of the Original Declaration, upon giving proper notice and holding a vote on the matter, Owners and Mortgagees, as required, representing at least seventy-five (75%) of the voting power of the Members have affirmatively approved the adoption of this document.

RECITALS

A. Association. The Belmont Terrace Homeowners Association, Inc., by and through its Board of Directors, is the authorized representative of the owners of the real property described herein and hereby adopts this First Amended and Restated Declaration of Covenants, Conditions and Restrictions as approved by the Owners.

B. Existing Project. The Belmont Terrace Subdivision is comprised of the real property described in Article II below.

C. Original Declaration. The Original Declaration was recorded in the office of the Salt Lake County Recorder on May 26th, 1980 as Entry No. 3416277, in Book 5075 Page 940, et seq.

D. Objective. The primary objective of this Amended and Restated Declaration is to reassign and clarify the maintenance obligations of the Association and Owners with respect to lots, common areas and improvements. Furthermore, the objective is to help protect the long term property values of the individual lots, the desirability and attractiveness of the community, and to help maintain a consistent character of home ownership.

ARTICLE I

DEFINITIONS

When used in this Declaration (including in that portion hereof headed "Recitals" and in the Bylaws attached hereto as **Exhibit "B"**) the following terms shall have the meaning indicated. The definitions contained in this Article are primarily for reference and illustrative purposes and may be further defined elsewhere in this Declaration.

1.1 "Architectural Committee" shall mean the committee created pursuant to Article VIII hereof.

1.2 "Areas of Common Responsibility" shall mean those areas of the Association that are not considered Common Areas but are nonetheless the responsibility of the Association to maintain as specified in this Declaration, including but not limited to all Structural Maintenance Areas, fences, driveways, sidewalks, parking spaces, roofs and all other exterior surfaces of the Buildings and excluding decks and all Dwelling Units, as defined in Article I, Section 1.14 of this Declaration, and excluding all recessed doors, screen doors, sliding doors, garage doors, windows, party walls, party fences, patios, decks, specially approved landscaping and other components that are not used in common with at least one other Owner. Utility lines that service only one Dwelling Unit are not deemed Areas of Common Responsibility.

1.3 "Articles" shall mean the Articles of Incorporation of the Association which have been filed in the office of the Secretary of State of the State of Utah, a true copy of which is attached hereto, marked as Exhibit C, and incorporated herein by reference, as such Articles may be amended from time to time.

1.4 "Association" shall mean and refer to the Belmont Terrace Homeowners Association. Every Owner shall automatically

be a member of the Association. Membership in the Association shall be appurtenant to the Lot in which the Owner has the necessary interest, and shall not be separated from the Lot to which it appertains. The property, business, and affairs of the Association shall be governed by the Board of Directors.

1.5 "Board of Directors" or "Board" shall mean the Board of Directors.

1.6 "Building" shall mean and refer to a building located on a lot designed and intended for use and occupancy as a residence by a single family.

1.7 "Capital Improvement Assessment" shall mean a charge against each Owner and his Lot, representing a portion of the costs to the Association for the installation or construction of any improvements on any portion of the Common Area which the Association may from time to time authorize.

1.8 "Common Areas" shall mean all the real property and Improvements within the Properties, as shown upon the recorded Subdivision Plat or Belmont Terrace, a Planned Unit Development (the "Map") except the Lots and any Improvements created thereon, including decks and patios, which are the responsibility of the Owners as provided in Article IX below.

1.9 "Common Assessment" shall mean the charge against each Owner and his Lot, representing a portion of the total costs to the Association of maintaining, improving, repairing, managing, and operating the Properties, which are to be paid uniformly and equally by each Owner to the Association, as provided herein.

1.10 "Common Expenses" shall mean the

actual and estimated costs of maintenance, management, operation, repair and replacement of the Common Area and all other areas the Association is responsible for as specified by this Declaration (including unpaid special assessments, reconstruction assessments, capital improvement assessments, and individual assessments), including those costs not paid by the Owner responsible for payment; costs of management and administration of the Association including, but not limited to, compensation paid to the Association to managers, accountants, attorneys and other employees; the costs of all utilities, gardening and other services benefiting the Common Area, the costs of fire, casualty, and liability insurance covering the properties and the costs of bonding of the members of the management body; taxes paid by the Association for discharge of any lien or encumbrance levied against the Properties, or portions thereof; and the costs of any other item or items designated by, or in accordance with other expenses incurred by, the Association for any reason whatsoever in connection with the Properties, for the benefit of all of the Owners.

1.11 "Declarant" shall mean and refer to Turnkey Investment Corp., a Utah corporation, its successors and assigns, so long as Declarant assigns such rights of Declarant hereunder to any person or entity by an express written assignment.

1.12 "Declaration" shall mean and refer to this instrument and as it may be amended from time to time.

1.13 "Deed of Trust" shall mean and refer to a mortgage or a deed of trust, as the case may be.

1.14 "Dwelling Unit" shall mean and refer to a separate physical part of a Building defined independently for maintenance purposes. Mechanical equipment and appurtenances located within any one

Dwelling Unit or located without said Dwelling Unit but designated and designed to serve only that Dwelling Unit, such as appliances, electrical receptacles and outlets, air conditioning compressors and other air conditioning apparatus, fixtures and the like, also patios and decks, shall be considered part of the Dwelling Unit, as shall all decorated interiors, all surfaces of interior structural walls, floors and ceilings, windows, and interior window frames, doors and interior door frames, and interior trim, consisting of, inter alia and as appropriate, sheetrock or its equivalent, wallpaper, paint, flooring, carpeting and tile. All pipes, wires, conduits, or other public utility lines or installations constituting a part of the Dwelling Unit and serving only that Dwelling Unit, and any structural members or any other property of any kind, including fixtures and appliances within any Dwelling Unit, which are removable without jeopardizing the soundness, safety, or usefulness of the remainder of the Building within which the Dwelling Unit is situated shall be considered part of the Dwelling Unit.

1.15 "Family" shall mean: (1) a group of natural persons related to each other by blood or legally related to each other by marriage or adoption, or (2) a group of not more than three (3) persons not all so related who maintain a common household in a Dwelling Unit.

1.16 "Improvement" shall mean all structures and appurtenances thereto of every type and kind, including but not limited to buildings, outbuildings, walkways, sprinkler pipes, carports, roads, driveways, parking areas, fences, screening walls, retaining walls, stairs, decks, landscaping, hedges, windbreaks, plantings, planted trees and shrubs, poles, signs, exterior air conditioning and water-softener fixtures or equipment.

1.17 "Individual Assessment" shall mean a charge against a particular Owner and his Lot, directly attributable to the Owner, equal to any

finer levied or costs incurred by the Association for corrective action performed pursuant to the provisions of this Declaration, plus interest thereon as provided for in this Declaration.

1.18 "Lot" shall mean and refer to any residential lot or parcel of land shown upon the recorded subdivision plat of this planned unit development (the "Map"), including any Improvements thereon, with the exception of the Common Area.

1.19 "Map" shall mean the subdivision plat of Belmont Terrace, a Planned Unit Development which has been recorded March 21, 1980, in the office of the County Recorder of Salt Lake County, State of Utah as Entry 3414452, in Book "80-3" of Plats at Page 59, and which shows the Properties including the Lots, the Common Area, and any easements and rights-of-way appurtenant thereto.

1.20 "Maintenance Funds" shall mean the accounts created for receipts and disbursements of the Association.

1.21 "Manager" shall mean the person, firm or corporation appointed by the Association hereunder or its agents and delegated certain duties, powers, or functions of the Association.

1.22 "Member" shall mean any person or entity holding a membership in the Association as provided herein.

1.23 "Mortgage" or "Mortgagee" shall mean any mortgage or deed of trust or other conveyance of a Lot to secure the performance of an obligation, which will be void and reconveyed upon the completion of such performance. The term "Deed of Trust" or "Trust Deed" when used herein shall be synonymous with the term "Mortgage". The term "Mortgage" shall mean a person or entity to whom a mortgage is made and shall include the beneficiary of a deed of trust; "Mortgagor"

shall mean a person or entity who mortgages his or her property to another (i.e., the maker of a mortgage), and shall include the Trustor of a deed of trust. The term "Trustor" shall be synonymous with the term "mortgagor", and the term "Beneficiary" shall be synonymous with the term "Mortgagee".

1.24 "Notice and Hearing" shall mean written notice and a public hearing before a tribunal appointed by the Board, at which the Owner concerned shall have an opportunity to be heard in person or by counsel at Owner's expense, in the manner further provided in the Bylaws.

1.25 "Owner" shall mean and refer to the person or persons or other legal entity or entities, holding fee simple interest of record to any Lot which is a part of the properties, including sellers under executory contracts of sale, but excluding those having such interest merely as security for the performance of an obligation. For purposes of Article X only, unless the context otherwise requires, Owner shall also include the family, invitees, licensees and Lessees of any Owner.

1.26 "Person" shall mean a natural individual or any other entity with the legal right to hold title to real property.

1.27 "Properties" shall mean and refer to all of the real property described in Exhibit A.

1.28 "Reconstruction Assessment" shall mean a charge against each Owner and his Lot, representing a portion of the cost to the Association for reconstruction of any portion or portions of the Improvements on the Common Area pursuant to the provisions of this Declaration.

1.29 "Special Assessment" shall mean a charge against each Owner and his Lot, representing a portion of the cost of any construction, reconstruction, or unexpected repair or replacement of a capital improvement

upon the Common Area including any personal property related thereto, and as more particularly defined herein.

NOTES

1.30 *“Structural Maintenance Areas”* shall mean, as the same may from time to time exist, the exterior surfaces of all residential structures, the fences, the exterior roofing material of the structures, and any exterior sidewalks on the Lots.

ARTICLE II

OWNERS' PROPERTY RIGHTS

2.1 Owners' Easements of Enjoyment.

Every Owner shall have a right and easement of ingress and egress and of enjoyment in, to and over the Common Area which shall be appurtenant to and shall pass with title to every Lot, subject to the following non-exhaustive provisions:

(a) The right of the Association to reasonably limit the number of guests of Owners using the Common Area facilities.

(b) The right of the Association to establish uniform rules and regulations pertaining to the use of the Common Area, including, but not limited to, the right of the Association to enforce all parking restrictions within the Common Area as set forth in Article II herein. The Association may also establish reasonable fines pursuant to a schedule of fines for violations of this Declaration, the Bylaws and the rules and regulations of the Association.

(c) The right of the Association in accordance with its Articles of Incorporation, Bylaws, and this Declaration, with the vote of or written assent of two-thirds (2/3) of the members, to borrow money for the purpose of improving the Common Area and Facilities and in aid thereof, and, subject to the provisions of Article XIV of this Declaration, to mortgage, pledge, deed in trust, or hypothecate any or all of the real or personal property as security for money borrowed or debts incurred, provided that the rights of such Mortgagee shall be subordinated to the rights of the Owners.

(d) Except for the right of ingress and egress to the Owners' Lots, the Association shall have the authority to suspend the right to use the Common Area Facilities by an Owner, to

suspend voting rights, and to levy fines for any period during which any assessment against his Lot remains unpaid and delinquent or for any single infraction of this Declaration or the published rules and regulations of the Association. Any suspension of such voting rights, or the right to use of the Common Area and Common Area Facilities, or the levying of a fine shall be made only by the Board of Directors of the Association, after notice and an opportunity for a hearing, as provided in the Bylaws of the Association.

(e) Subject to the provisions of Article XIV of this Declaration, the right of the Association to dedicate, release, alienate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication, release, alienation or transfer shall be effective, unless an instrument signed by Members entitled to cast two-thirds (2/3) of the voting power of the Members, agreeing to such dedication, release, alienation or transfer has been recorded.

(f) The right of the Association (by action of the Board) to reconstruct, replace, or refinish any improvement or portion thereof upon the Common Area, in accordance with the original design, finish or standard of construction of such improvement, or of the general improvements within the Properties, as the case may be; and not in accordance with such original design, finish, or standard of construction only with the vote or written consent of the Owners holding Sixty-Seven (67) percent of the voting power of the Association.

(g) The right of the Association to replace destroyed trees or other vegetation and plant trees, shrubs and ground cover upon any

portion of the Common Area.

2.2 Delegation of Use.

Any Owner may delegate his right of enjoyment to the Common Area and Facilities to the members of his family, his tenants, or contract purchasers who reside in his Building, subject to reasonable regulations adopted by the Board.

2.3 Enforcement & Easements for Parking.

The Association, through its officers, committees and agents, is hereby empowered to establish "parking" and "no parking" areas within the Common Area, as well as to enforce these parking limitations by all means lawful for such enforcement including the removal of any violation vehicle by those so empowered (e.g. through towing) without further notice.

The specific parking spaces assigned to each Lot are described and designated in the Map as being reserved for the exclusive use of the Owner of each such Lot. Every devise, encumbrance, conveyance, or other disposition of a Lot shall be construed to create a permanent, exclusive easement appurtenant to such Lot for parking on those parking spaces described in the Map and designated thereon as being reserved for the exclusive use of the Owner of such Lot.

Temporary guest or recreational parking shall be permitted within the Common Area only within the spaces and areas clearly marked for this purpose. Spaces shall be shown by signs or markings on the paved area.

2.4 Easements for Vehicular Traffic.

In addition to the general easements for use of the Common Area reserved herein, each and every Owner shall have a non-exclusive easement appurtenant for vehicular traffic over all private streets within the Properties, subject

to the parking provisions set forth in Section 2.3 of Article II hereof.

2.5 Easements for City and County Public Service Use.

In addition to the foregoing easements over the Common Area, there shall be easements for city, county, and federal public services, including but not limited to, the right of the police to enter upon any part of the Common Area for the purpose of enforcing the law.

2.6 Waiver of Use.

No Owner may exempt himself from personal liability for assessments duly levied by the Association, nor release the Lot or other property owned by him from the liens and charges hereof, by waiver of the use and enjoyment of the Common Area and the facilities thereon or by abandonment of his Lot or any other property in the Properties.

2.7 Taxes.

Each Owner shall execute such instruments and take such action as may reasonably be specified by the Association to obtain separate real estate tax assessment of each lot. If any taxes or assessments may, in the opinion of the Association, nevertheless be a lien on more than one Lot not under common ownership, or any part thereof, they may be paid by the Association and each Owner shall be obligated to pay or to reimburse the Association for, as the case may be, the taxes and assessments assessed by the County Assessor or other taxing authority against his own Lot and interest, if any, in the Common Area.

NOTES

ARTICLE III

MEMBERSHIP IN ASSOCIATION

3.1 *Membership.*

Every Owner of a Lot shall be a member of the Association, and no Owner shall have more than one membership in the Association. Memberships in the Association shall not be assignable, except to the successor-in-interest of the Owner, and every membership in the Association shall be appurtenant to, and may not be separated from, the fee ownership of such Lot. Ownership of such Lot shall be the sole qualification for membership in the Association.

3.2 *Transfer.*

The Association membership held by any Owner of a Lot shall not be transferred, pledged, or alienated in any way, except upon the sale or encumbrance of such Lot, and then only to the purchaser or Mortgagee of such Lot. A Member, who has sold his Lot to a contract purchaser under an agreement to purchase, shall be entitled to delegate to such contract purchaser the right to exercise the contract seller's membership rights on seller's behalf. Such delegation shall be in writing and shall be delivered to the Board before such contract purchaser may vote.

However, the contract seller shall remain liable for all charges and assessments attributable to his Lot until fee title to the Lot sold is transferred. In the event the Owner of any Lot shall fail or refuse to transfer the membership registered in his name to the purchaser of such Lot upon transfer of fee title thereto, the Board of Directors shall have the right to record the transfer upon the books of the Association. The Board of Directors shall have the right to charge a reasonable Individual Assessment against any Owner, and

his Lot, equal to the cost to the Association of affecting any such transfer of his membership upon the books of the Association.

NOTES

ARTICLE IV

VOTING DISTRIBUTION

4.1 *Vote Distribution.*

Members shall be entitled to one (1) vote for each Lot in which they hold the interest required for membership.

When more than one person holds such interest or interests in any Lot ("co-owner"), all such co-owners shall be Members and may attend any meetings of the Association, but only one such co-owner shall be entitled to exercise the vote to which the Lot is entitled. Such co-owners may from time to time all designate in writing, one of their number to vote.

Fractional votes shall not be allowed, and the vote for each Lot shall be exercised, if at all, as a unit. Where no voting co-owner is designated or if such designation has been revoked, the vote for such Lot shall be exercised as the majority of the co-owners of the Lot mutually agree, unless the Board receives a written objection from a co-owner, it shall be presumed that the corresponding voting co-owner is acting with the consent of his or her co-owners.

No vote shall be cast for any Lot where the majority of the co-owners present in person or by proxy and representing such Lot cannot agree to said vote or other action. The non-voting co-owner or co-owners shall be jointly and severally responsible for all of the obligations imposed upon the jointly owned Lot and shall be entitled to all other benefits of ownership.

All agreements and determinations lawfully made by the Association in accordance with the voting percentages established herein, or by the Bylaws of the Association, shall be deemed to be binding on all Owners, their

successors and assigns.

Said voting rights shall be subject to the restrictions and limitations provided in this Declaration and in the Articles of Incorporation and Bylaws of the Association.

NOTES

ARTICLE V

DUTIES AND POWERS OF THE ASSOCIATION

The Association, acting through the Board of Directors, shall also have the power and duty to:

5.1 *Maintain the Common Area.*

Maintain, repair, and otherwise manage the Common Area and all facilities, and replace those elements of the Common Area that must be replaced on a periodic basis, including the improvements and landscaping thereon in accordance with the provisions of this Declaration. Utility lines that service only a single Dwelling Unit shall not be deemed Common Area.

5.2 *Maintain the Private Streets.*

Maintain all private streets within this Planned Unit Development, including cleaning and periodic resurfacing.

5.3 *Maintain the Private Sewer Systems.*

Maintain all private sewer systems within the Common Area.

5.4 *Other Maintenance Duties.*

Maintain all Areas of Common Responsibility and Structural Maintenance Areas within the Association as defined herein. Furthermore, the Association shall maintain all landscaping on the Lots except for any areas specially landscaped by the Owner, as approved in advance by the Architectural Committee.

5.5 *Grant Easements.*

Grant easements, rights of way, or strips of land, where necessary, for utilities and sewer facilities over the Common Area to serve the Common Area and the Lots.

5.6 *Maintain Insurance.*

Maintain such policy or policies of insurance as may be permitted or allowed in this Declaration and the Bylaws.

5.7 *Employ a Professional Manager and Delegate Duties.*

Determine whether to employ or contract with a professional manager to perform all or any part of the duties and responsibilities of the Association, and shall have the power to delegate its powers to committees, officers and employees. Any such agreement shall be for a term not in excess of three (3) years, subject to cancellation by either party without cause or payment of a termination fee upon ninety (90) days or less written notice.

5.8 *Enter a Lot to Enforce or Maintain.*

After fifteen (15) days written notice, without being liable to any Owner, enter upon any Lot, for the purpose of enforcing by peaceful means the provisions of this Declaration, or for the purpose of maintaining or repairing any such area as required by this Declaration.

5.9 *Impose Penalties and Fines.*

If the owner fails or refuses to pay an assessment when due, the board of directors may, after giving notice and an opportunity to be heard, terminate an Owner's right to receive utility services paid as a common expense and of access and use of recreational facilities. Before terminating utility services or right of access and use of recreational facilities, the Board shall give written notice to the Owner.

A. The notice shall inform the Owner:

(1) that utility service or right of access and use of recreational facilities will be terminated if payment of the assessment is not received within 48 hours;

(2) of the amount of the assessment due, including any interest or late payment fee; and

(3) of the right to request a hearing pursuant to the following:

(i) An owner who is given notice under Section 5.8A may request an informal hearing to dispute the assessment by submitting a written request to the Board of Directors within 14 days after the date on which the owner receives the notice described in Section 5.8A.

(ii) The hearing shall be conducted by the board of directors in accordance with the standards provided in the declaration, bylaws, or rules.

(iii) If a hearing is requested, utility services or right of access and use of recreational facilities may not be terminated until after the hearing has been conducted and a final decision has been entered.

B. Upon payment of the assessment due, including any interest or late payment fee, the Board of Directors shall immediately take action to reinstate the terminated utility services.

5.10 All Additional Power as Required.

The Association, acting through the Board of Directors, shall also have any and all additional power required to accomplish the duties and functions provided for in this Declaration.

ARTICLE VI

COVENANT FOR MAINTENANCE ASSESSMENTS

6.1 Creation of the Lien and Personal Obligation of Assessments.

Each Owner of any Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association:

- (1) Annual Common Assessments for Common Expenses,
- (2) Capital Improvements Assessments,
- (3) Special Assessments,
- (4) Reconstruction Assessments, and
- (5) Individual Assessments;

such assessments to be established and collected as hereinafter provided.

Such assessments, together with interest, costs and reasonable attorneys' fees for the collection thereof, shall be a charge on the land and shall be a continuing lien upon the property against which such assessment is made.

Each such assessment, together with interest, costs and reasonable attorneys' fees, shall also be the personal obligation of the person who was the owner of such property at the time when the assessment fell due. Subject to provisions of this Declaration protecting first mortgagees, the personal obligation, for delinquent assessments shall pass to the successors in interest of such Owner.

The Board of Directors shall establish no fewer than two (2) such separate accounts into which shall be deposited all monies paid to the Association, and from which disbursements shall be made, as provided herein, in the

performance of functions by the Association under the provisions of this Declaration. Each of the Association's Maintenance funds shall include: (1) an Operating Fund for current expenses of the Association, and (2) a Reserve Fund for replacements, painting, and repairs (which would not reasonably be expected to recur on an annual or less frequent basis) of the Common Area facilities and Areas of Common Responsibility to the extent necessary under the provisions of this Declaration. The Board of Directors shall not commingle any amounts deposited into any of the Association's Maintenance Funds with one another. The Board of Directors shall use its best discretion when determine amounts to be allocated to the maintenance funds, including the reserve account and shall not be individual liable for any shortfalls in such accounts.

6.2 Purpose of Common Assessments.

The Assessments levied by the Association shall be used to promote the common health, safety, benefit, recreation, and welfare of the Owners and for the improvement and maintenance of the Common Area as well as Areas of Common Responsibility within the Properties as provided herein.

The assessments shall also be for an adequate reserve to be used as appropriate for maintenance repairs and replacement of those elements of the property that must be replaced on a periodic basis.

However, disbursements from the Reserve Fund shall be made by the Board of Directors only for the specific purposes specified in this Article VI.

Disbursements from the operating fund shall be made by the Board of Directors for such purposes as are necessary for the discharge of

its responsibilities herein for the common benefit of all of the Owners, other than those purposes for which disbursements for the Reserve Fund are to be used. Nothing contained herein shall limit, preclude, or impair the establishment of additional Maintenance Funds by the Association.

6.3 *Damage to Common Area and/or Areas of Common Responsibility by Owners.*

The foregoing maintenance, repairs or replacements within the Common Areas and/or Areas of Common Responsibility arising out of or caused by the willful or negligent act of the Owner, his family, guests or invitees shall be done at said Owner's expense or an Individual Assessment therefor shall be made against his Lot; provided, however, that the liability of an individual Owner for such damage to the Common Area or Area of Common Responsibility shall not be absolute, but shall only be that for which the Owner is legally responsible under State Law.

6.4 *Special Assessments.*

In addition to the Common Assessments authorized above, the Board of Directors of the Association may levy, in any assessment year:

(a) A Special Assessment for capital improvements for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction or unexpected repair or replacement of a capital improvement upon the Common Area including any personal property related thereto; and

(b) Should the Board determine that the regular Common Assessment during any fiscal year is, or will become, inadequate to meet the payment of Common Expenses, other than capital improvement, for the balance of such fiscal year, the Board shall immediately determine the approximate amount of such

inadequacy and issue a supplemental budget, noted as to the reason therefor, for the amount required to meet all such expenses on a current basis for the balance of such fiscal year;

(c) The total of all Special Assessments in any assessment year shall not exceed, in the aggregate, fifteen percent (15%) of the Association's budgeted gross expenses for such year without the approval of a majority of Owners. All Owners in good standing may vote in the election. The election may be held in any manner allowed by the Utah Nonprofit Act, as amended, including by mail-in ballot. Notice of the adoption and approval of the Special Assessment pursuant to this Section shall be given by the Board to each Owner within fifteen (15) days following the adoption of the Assessment.

6.5 *Notice and Quorum for an Action Authorized Under Section 6.4.*

Written notice of any meeting called for the purpose of taking any action by the Members authorized under Section 6.4 shall be sent to all Members not less than twenty (20) days, nor more than sixty (60) days, in advance of the meeting. At any such meeting called, the Members that are represented, in person or by proxy, at the meeting constitute a quorum for action on the matter.

6.6 *Rate of Assessment.*

Common Assessments and Special Assessments provided for in this Article VI will generally be fixed at an equal rate for all Lots within the Properties, provided, however, that the Association may require that Owners who have caused to be installed a garage door in the carport appurtenant to such Owners Lot, shall pay an additional proportionate amount for maintenance, repair, or replacement of a garage door, if the Association, at the Board's sole discretion, undertakes such work. Nothing in this paragraph shall preclude the

levying and collection of Individual Assessments against selected Owners as provided herein. All Common Assessments shall be collected on a regular basis by the Board of Directors at such frequency as the Board shall determine.

6.7 Date of Commencement of Common Assessments: Due Date.

All assessments provided for herein shall be made in regular monthly installments after the assessment is made.

The annual Common Assessment for all lots shall commence, as provided for herein, on the first day of the month following the conveyance of the Common Area to the Association.

The first annual Common Assessment shall be adjusted according to the number of months remaining in the fiscal year as set forth in the Bylaws.

The Board of Directors shall fix the amount of the annual Common Assessment against each Lot at least thirty (30) days in advance of each Common Assessment period. Written notice of any change in the amount of the annual Common Assessment shall be sent to every Owner subject thereto, at least thirty (30) days prior to the effective date of such change.

The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer or agent of the Association, setting forth whether the assessments on a specified lot have been paid. A properly executed certificate of the Association as to the status of assessments against a lot is binding upon the Association as of the date of its issuance.

The Board of Directors shall cause to be prepared an annual balance sheet and operating statement reflecting income and expenditures of the Association for each fiscal

year, including deposits in and withdrawals from the Reserve Fund and the Operating Fund, and shall cause to be distributed a copy of each such statement to each owner, and to each first Mortgagee who has filed a written request for copies of the same with the Board of Directors, in a manner provided in the Bylaws of the Association.

At least sixty (60) days prior to the beginning of each fiscal year, the Board of Directors shall prepare and distribute to the membership of the Association, a written, itemized estimate (budget) of the expenses to be incurred by the Association during such year in performing its functions under this Declaration (including a reasonable provision for contingencies and deposits into the Reserve fund, less any expected income and accounting for any surplus from the prior year's respective Association Maintenance Fund.)

Each annual Common Assessment shall constitute an aggregate of separate assessments for each of the Associations Maintenance Funds, reflecting an itemization of the amounts assessed and attributable to prospective deposits into the Reserve Fund, the Operating Fund and any other Association Maintenance Funds established by the Association.

If the estimated sums prove inadequate for any reason, including nonpayment of any Owner's annual Common Assessment, the Board may, at any time, levy supplemental Common Assessments for any of the Associations Maintenance Funds, in accordance with Article VI, Section 6.4(b).

Each annual Common Assessment may be paid by the Owner to the Association in one check or payment or in separate checks, as payments attributable to deposits into specified Maintenance Funds.

In the event that any installment of a Common Assessment payment is less than the amount assessed and the payment does not specify the Association Maintenance Fund or Funds into which it should be deposited, the receipt by the Association from the Owner shall be credited in order of priority first to the Operating Fund, until that portion of the Common Assessment has been satisfied, and second to the Reserve Fund.

At the end of any fiscal year of the Association, the Board may determine that all excess funds remaining in the Operating Fund, over and above the amounts used for the operation of the Properties, may be transferred to another fund.

Notwithstanding anything contained in the Articles or Bylaws to the contrary, if prior to dissolution of the Association, the Association has not obtained tax exempt status from both the Federal and State government, then the Reserve Funds shall be distributed to or for the benefit of the Members in a proportion equal to their individual, respective contributions.

6.8 Exempt Property.

The following property subject to this Declaration shall be exempt from the assessments herein:

- (a) All Properties dedicated to and accepted by a local public authority;
- (b) The Common Area;
- (c) Any Lot owned by the Association.

ARTICLE VII

EFFECT OF NON-PAYMENT OF ASSESSMENTS, REMEDIES OF THE ASSOCIATION

7.1 Effect of Nonpayment of Assessments: Remedies of the Association.

Any installment of a Common Assessment, Capital Improvement Assessment, Special Assessment or Reconstruction Assessment not paid within thirty (30) days after the due date shall bear interest from the due date of such installment at the rate of fifteen percent (15%) per annum. A late fee, in an amount determined by the Board, may also be charged on a monthly basis.

The Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the Lot.

No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of the Lot. If any installment of a Common Assessment is not paid within thirty (30) days after its due date, the Board shall mail an acceleration notice to the Owner and to each first Mortgagee of a Lot which has requested a copy at the notice.

The notice shall specify: (1) the fact that the installment is delinquent, (2) the action required to cure the default, (3) a date, not less than thirty (30) days from the date the notice is mailed to the Owner, by which such default must be cured, and (4) that failure to cure the default on or before the date specified in the notice may result in acceleration of the balance of the installments of the Common Assessment for the then current fiscal year and sale of the Lot.

If the delinquent installments of Common Assessments and any charges thereon are not paid in full on or before the date specified in the notice, the Board at its option may declare all of the unpaid balance of the annual

Common Assessment to be immediately due and payable without further demand and may enforce the collection of the full Common Assessment and all charges thereon in any manner authorized by law and this Declaration.

7.2 Foreclosure Sale.

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

7.3 Appointment of Trustee.

If the Board elects to foreclose the lien in the same manner as foreclosures in deeds of trust, then the Owner by accepting a deed to the Unit hereby irrevocably appoints the attorney of the Association, provided he/she is a member of the Utah State Bar, as Trustee, and hereby confers upon said Trustee the power of sale set forth with particularity in Utah Code Annotated, Section 57-1-23 (1953), as may be amended from time to time.

In addition, Owner hereby transfers in trust to said Trustee all of his right, title and interest in

and to the real property for the purpose of securing his performance of the obligations set forth herein.

7.4 Curing of Default.

Upon the timely curing of any default for which a Notice of Assessment was filed by the Association, the officers thereof shall record an appropriate Release of Lien, upon payment by the defaulting Owner of a fee, to be determined by the Association, to cover the cost of preparing and recording such release.

A certificate executed by a member of the Board stating the indebtedness secured by the liens upon any Lot created hereunder shall be conclusive upon the Association and the Owners as to the amount of such indebtedness as of the date of the certificate, in favor of all persons who rely thereon in good faith. Such certificate shall be furnished to any Owner upon request at a reasonable fee, not to exceed Twenty Dollars (\$20.00).

7.5 Cumulative Remedies.

The assessment liens and the rights to foreclosure and sale thereunder shall be in addition to and not in substitution for all other rights and remedies which the Association and its assigns may have hereunder and by law, including a suit to recover a money judgment for unpaid assessments, as above provided.

7.6 Subordination of the Lien to Mortgages.

The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage (meaning any recorded mortgage with first priority or seniority over other mortgages) made in good faith and for value and recorded prior to the date on which the assessment came due. Sale or transfer of any Lot shall not affect the assessment lien.

However, the sale or transfer of any Lot pursuant to mortgage foreclosure or deed in lieu thereof, shall extinguish the lien of such assessments as to installments which became due prior to such sale or transfer. However, no sale or transfer shall relieve such Lot from liability for any installments or assessments thereafter becoming due or from the lien thereof.

NOTES

ARTICLE VIII

ARCHITECTURAL CONTROL

8.1 Members of Architectural Committee.

The Board of the Association shall function as the Architectural Committee (sometimes referred to as "Committee") and their terms as an Committee member shall correspond with their respective Board of Director term.

However, the Board may elect to delegate the ACC functions to a separate Committee. In such an event, the Committee shall consist of no fewer than three (3) members and no more than five (5) members, the function of which shall be to insure that all improvements and landscaping within the Property harmonize with existing surroundings and structures. The terms of the Committee shall be as determined by the Board. The Board of Directors shall have the right to appoint and remove all members of the Committee and all appointees to the Committee shall be Members of the Association.

8.2 Review of Proposed Construction.

Subject to Article VIII, Section 8.8, of this Declaration, no building, fence, wall, patio, patio cover, deck, or other structure shall be commenced, painted, erected, or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein be made, nor any alterations made to the landscaping until the plans and specifications showing the nature, kind, shape, height, materials, plants, and location of the same shall have been submitted to and approved in writing as to harmony of external design and color and location in relation to surrounding structures and topography by the Architectural Committee.

The Committee shall approve proposals or plans and specifications submitted for its approval only if it deems that the

construction, alterations or additions contemplated thereby in the locations indicated will not be detrimental to the appearance of the surrounding area of the properties as a whole, that the appearance of any structure affected thereby will be in harmony with the surrounding structures, and that the upkeep and maintenance thereof will not become a burden on the Association.

The Committee may condition its approval of proposals or plans and specifications on such changes therein as it deems appropriate, upon the agreement by the Owner submitting the same to grant appropriate easements to the Association for the cost of maintenance, or all three, and may require submission of additional plans and specifications or other information prior to approving or disapproving material submitted.

The Committee may also issue rules or guidelines setting forth procedures for the submissions of plans for approval, requiring a fee payable to the Association to accompany each application for approval, or additional factors which it will take into consideration in reviewing submissions.

The Committee may provide that the amount of such fee shall be uniform, or that it be determined in any other reasonable manner, such as by the reasonable cost of the construction, alterations or additions contemplated, provided that in no event shall such fee exceed Five Hundred Dollars (\$500.00).

The Committee may require such detail in plans and specifications submitted for its review as it deems proper, including, without limitation, floor plans, site plans,

drainage plans, elevation drawings and description or samples of exterior material and colors. Until receipt by the Committee of any required plans and specifications, the Committee may postpone review of any plans submitted for approval.

8.3 Meetings of the Committee.

The Committee shall meet from time to time as necessary to perform its duties hereunder. The Committee may from time to time, by resolution unanimously adopted in writing, designate a Committee Representative (who may, but need not, be one of its members) to take any action or perform any duties for and on behalf of the Committee, except the granting of variances pursuant to Section 8.8 hereof. In the absence of such designation, the vote of the majority of the members of the Committee taken without a meeting, shall constitute an act of the Committee.

8.4 No Waiver of Future Approvals.

The approval of the Committee to any proposals or plans and specifications or drawings for any work done or proposed or in connection with any other matter requiring the approval and consent of the Committee shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings or matter whatever subsequently or additionally submitted for approval or consent.

8.5 Compensation of Members.

The members of the Committee shall receive no compensation for services rendered, other than reimbursement for expenses incurred by them in the performance of their duties hereunder.

8.6 Inspection of Work.

Inspection of work and correction of defects

therein shall proceed as follows:

(a) Upon the completion of any work for which approved plans are required under this Article VIII, the Owner shall give written notice of completion to the Committee.

(b) Within one hundred twenty (120) days thereafter, the Committee or its duly authorized representative may inspect such Improvement. If the Committee finds that such work was not done in substantial compliance with the approved plans it shall notify the Owner in writing of such noncompliance within such one hundred twenty day period, specifying the particulars of noncompliance, and shall require the Owner to remedy the same.

(c) If upon the expiration of thirty (30) days from the date of such notification the Owner shall have failed to remedy such non-compliance, the Committee shall notify the Board in writing of such failure, upon Notice and opportunity for Hearing, the Board shall determine whether there is a noncompliance and, if so, the nature thereof and the estimated cost of correcting or removing the same.

If a noncompliance exists, the Owner shall remedy or remove the same within a period of not more than forty-five (45) days from the date of announcement of the Board ruling. If the Owner does not comply with the Board ruling within such period the Board, at its option, may either remove the non-complying improvement or remedy the noncompliance, and the Owner shall reimburse the Association, upon demand, for all expenses incurred in connection therewith.

If such expenses are not promptly repaid by the Owner to the Association, the Board shall levy an Individual Assessment against such Owner for reimbursement.

8.7 *Non-Liability of Committee Members.*

Neither the Committee nor any member thereof, nor its duly authorized Committee representative shall be liable to the Association or to any Owner for any loss, damage or injury arising out of or in any way connected with the performance of the Committee's duties hereunder, unless due to the willful misconduct or bad faith of the Committee.

The Committee shall review and approve or disapprove all plans submitted to it for any proposed improvement, alteration or addition, solely on the basis of aesthetic considerations and the overall benefit or detriment which would result to the immediate vicinity and the properties generally.

The Committee shall take into consideration the aesthetic aspects of the architectural designs, placement of buildings, landscaping, color schemes, exterior finishes and materials and similar features, but shall not be responsible for reviewing, nor shall its approval of any plan or design be deemed approval of, any plan or design from the standpoint of structural safety or conformance with building or other codes, excepting that the Committee hereby waives the non-liability provision of this paragraph to the extent necessary to obtain insurance as provided for in Article XIII hereof.

8.8 *Variance.*

The Committee may authorize variances from compliance with any of the architectural provisions of this Declaration or any supplemental declaration, including restrictions upon height, size, floor area or placement of structures, or similar restrictions, when circumstances such as topography, natural obstructions, hardship, aesthetic, or environmental consideration, may require.

Such variances must be evidenced in writing, and must be signed by at least two (2) members of the Board of Adjustment of Salt Lake County.

If such variances are granted, no violation of the covenants, conditions and restrictions contained in this Declaration or any Supplemental Declaration shall be deemed to have occurred with respect to the matter for which the variance was granted.

The granting of such a variance shall not operate to waive any of the terms and provisions of this Declaration or of any supplemental declaration for any purpose except as to the particular property and particular provisions hereof covered by the variance, nor shall it affect in any way the Owner's obligation to comply with all governmental laws and regulations affecting his use of the premises, including but not limited to zoning ordinances and lot set-back lines or requirements imposed by any governmental or municipal authority.

8.9 *Fences and Sign Barriers.*

No fence, wall, or sight barrier shall be erected without the prior written approval of the Architectural Committee on any Owner's Lot or on the perimeter boundary thereof except for a hedge or other plant barrier acceptable to the Architectural Committee.

NOTES

ARTICLE IX

MAINTENANCE AND REPAIR OBLIGATIONS

9.1 Structural Maintenance Areas.

No improvement, excavation, or work which in any way alters the Structural Maintenance Areas from their natural or existing state shall be made or done by any person other than the Association or its authorized agents except as provided in Article IX, Section 9.2, of this Declaration.

9.2 Maintenance Obligations of Owners.

Subject to the duty of the Association to provide for maintenance as provided in Section 9.3 of this Article, it shall be the duty of each Owner, at their sole cost and expense, subject to the provisions of this Declaration regarding Architectural Committee approval, to maintain, repair, replace, and restore his Dwelling Unit and all improvements therein in a neat, sanitary and attractive condition. Also, each Owner, at their sole cost and expense, shall be responsible for the maintenance, repair, and replacement of any deck or patio attached to their Dwelling Unit, subject to the provisions of Article VIII above.

In the event that any Owner shall permit any improvement, which is the responsibility of such Owner to maintain, to fall into disrepair or not to be so maintained so as to create a dangerous, unsafe, unsightly, or unattractive condition, or to otherwise violate this Declaration, the Architectural Committee shall have the right, but not the duty, upon fifteen (15) days prior Notice to the Owners of such Lot, to correct such condition and to enter upon such Owners' Lot to make such repairs or to perform such maintenance and the cost thereof shall be charged to the Owner.

Said cost shall be an Individual Assessment and shall create a lien enforceable in the same manner as other assessments as set forth in

this Declaration.

The Owner shall pay promptly all amounts due for such work, and the costs and expenses of collection may be added, at the option of the Board of Directors, to the amounts payable by each Owner as Common Assessments.

9.3 Maintenance Obligations of Association.

In addition to the provisions of Section 9.2 of this Article, the Association shall maintain, or provide for the maintenance of all of the Common Area and all improvements thereon and all Areas of Common Responsibility, including the Structural Maintenance Areas, in good order and repair, and shall likewise provide for painting, minor repair, and replacement as necessary of the carpports, perimeter sight barrier fences, any other Common Area fences, commonly metered utilities, common storage areas, and any and all utility laterals which service more than a single Dwelling Unit.

In addition to Common Area building maintenance, the Association shall provide all necessary landscaping and gardening to properly maintain and periodically replace when necessary the trees, plants, grass and other vegetation which is on the Common Area.

The Association shall further maintain, reconstruct, replace and refinish any paved surface in the Common Area. All of the foregoing obligations of the Association shall be discharged when and in such manner as the Board of Directors of the Association shall determine in their judgment to be appropriate.

9.4 Damage and Destruction Affecting Dwelling Unit; Duty to Rebuild.

If all or any portion of any Lot or Dwelling Unit is damaged or destroyed by fire or other casualty, it shall be the duty of the Association to rebuild, repair or reconstruct said residence in a manner which will restore it substantially to its appearance and condition immediately prior to the casualty.

9.5 Variance in Exterior Appearance and Design.

Any Owner who has suffered such damage may apply for approval to the Architectural Committee for reconstruction, rebuilding or repair of his residence in a manner which will provide for an exterior appearance and design different from that which existed prior to the date of the casualty.

Application for such approval shall be made in writing together with full and complete plans and specifications, working drawings and elevations showing the proposed reconstructions and the end result thereof. The Architectural Committee shall grant such approval only if the design proposed by the Owner should result in a finished residence in harmony with the exterior design of other residences on the properties.

If the Architectural Committee fails to act within thirty (30) days after receipt of such a request in writing coupled with the drawings and plot plans showing the full and complete nature of the proposed changes, the requesting Owner may submit to the Committee in writing, a "reminder request."

A Committee member must sign the reminder request acknowledging receipt thereof. Failure of the Architectural Committee to act within forty-five (45) days of acceptance of the reminder request by a member of the Committee shall constitute approval of the original request.

If the obligation for repair falls upon the Association, Architectural Committee approval will not be required prior to the commencement of such work.

9.6 Time Limitation.

The Owner or Owners of any damaged residence, the Association and the Architectural committee shall be obligated to proceed with all due diligence hereunder, and the responsible party shall commence reconstruction within one (1) year after damage occurs, unless prevented by causes beyond their reasonable control.

NOTES

ARTICLE X

USE RESTRICTIONS

All real property within the Properties shall be held, used and enjoyed subject to the following limitations and restrictions:

10.1 *Single Family Residence.*

Each Lot shall be used as a residence for a single family and for no other purpose.

10.2 *Business or Commercial Activity.*

No part of the Properties shall ever be used or caused to be used or allowed or authorized in any way, directly or indirectly, for any business, commercial, manufacturing, mercantile, storing, vending or other such non-residential purposes; excepting professional and administrative occupations without external evidence thereof, for so long as such occupations are in conformance with Salt Lake County ordinances and are merely incidental to the use of the Building as a residential home.

10.3 *Nuisances.*

No noxious or offensive activity (including but not limited to the repair of motor vehicles) shall be carried on, in, or upon any Lot or the Common Area, nor shall anything be done therein which may be or become an unreasonable annoyance or nuisance to any other Owner.

No loud noises or noxious odors shall be permitted on the Properties, and the Board of Director shall have the right to determine in accordance with the Bylaws if any noise, odor or activity producing such noise, odor or interference constitutes a nuisance.

Without limiting the generality of any of the foregoing provisions, no exterior speakers, horns, whistles, bells or other sound devices

(other than security devices used exclusively for security purposes), noisy or smoky vehicles, large power equipment or large power tools, unlicensed off-road motor vehicles or other items which may unreasonably interfere with television or radio reception of any Owner in the Properties, shall be located, used or placed on any portion of the Properties, or exposed to the view of other Owners without the prior written approval of the Architectural Committee.

The Board of Directors may further supplement those activities deemed a nuisance.

10.4 *Signs*

No sign, poster, display, billboard or other advertising device of any kind shall be displayed to the public view on any portion of the Properties or any Lot, without the prior written consent of the Architectural Committee, except one sign for each Building, of not more than three (3) feet by two (2) feet, plain white with black block letters, advertising the property for sale or rent. All signs or billboards and the conditions promulgated for the regulation thereof shall conform to the requirements of the Salt Lake County ordinances.

10.5 *Parking and Vehicular Restrictions.*

No Owner of a Lot shall pack, store or keep any vehicle except wholly within the parking area designated therefor, and any inoperable vehicle shall be stored only in covered carports. No Owner shall park, store or keep on any property or street (public or private) within the Properties any large commercial-type vehicle (dump truck, cement-mixer truck, oil or gas truck, delivery truck and any

other vehicular equipment, mobile or otherwise, deemed to be a nuisance by the Board), any recreational vehicle (camper unit, motor home, truck, trailer, boat, mobile home or other similar vehicle), upon any uncovered parking space, so as to be visible from anywhere in the Properties, except as otherwise provided by the Board.

The above excludes camper trucks up to and including three-quarter (3/4) ton when used for everyday-type transportation and subject to approval by the Board of Directors.

No Owner of a Lot shall conduct major repairs or major restorations of any motor vehicle, boat, trailer, aircraft, or other vehicle upon any portion of any Lot or upon the Common Area.

10.6 Animal Restriction.

No animals, livestock, reptiles, or poultry of any kind shall be raised, bred or kept on any Lot or the Common Area, except usual and ordinary dogs, cats, fish, birds and other household pets may be kept on Lots subject to rules and regulations adopted by the Association, provided that they are not kept, bred or maintained for commercial purposes, or in unreasonable quantities.

As used in this Declaration, "unreasonable quantities" shall ordinarily mean more than two (2) pets per household, provided that the Association (or the Architectural Committee or such other person or entity as the Association may from time to time designate) may determine that a reasonable number in any instance may be more or less.

The Association, acting through the Board of Directors, shall have the right to prohibit maintenance of any animal which constitutes, in the opinion of the Board, a nuisance to any other Owner.

Animals belonging to Owners, occupants or their licensees, tenants or invitees within the Properties must be either, kept within an enclosure, such as an enclosed patio, or on a leash being held by a person capable of controlling the animal.

The enclosure must be so maintained that the animal cannot escape therefrom and shall be subject to the approval of the Architectural Committee. Furthermore, any Owner shall be absolutely liable to each and all remaining Owners, their families, guests, tenants and invitees, for any unreasonable noise or damage to person or property caused by any animals brought or kept upon the Properties by an Owner or by members of his family, his tenants or his guests; and it shall be the absolute duty and responsibility of each such Owner to clean up after such animals which have used any portion of the Common Area.

10.7 Trash.

No rubbish, trash or garbage or other waste material shall be kept or permitted upon any Lot or Common Area, except in sanitary containers located in appropriate areas to arise therefrom so as to render the Properties or any portion thereof unsanitary, unsightly, offensive or detrimental to any other property in the vicinity thereof or to its occupants.

There shall be no exterior fires whatsoever except barbecue fires contained within receptacles therefore and fire pits located to the rear of any Building on any Lot designed in such a manner that such fire pits do not create a fire hazard.

No clothing or household fabrics shall be hung, dried or aired in such a way in the Lots to visible from other Lots, and no lumber, grass, shrub or tree clippings or plant waste, metals, bulk material or scrap, or refuse or trash shall be kept, stored or

allowed to accumulate on any portion of the Properties except within an enclosed structure or appropriately screened from view.

10.8 View Obstructions.

No fence, hedge, wall or other dividing instrumentality over six feet (6') in height measured from the ground on which it stands shall be constructed or maintained on any Lot.

10.9 Temporary Buildings.

No outbuilding, basement, tent, shack, shed or other temporary build or improvement of any kind shall be placed upon any portion of the Properties, either temporarily or permanently. No garage, trailer, camper, motor home or recreation vehicle shall be used as a residence in the Properties, either temporarily or permanently.

10.10 Common Area Facilities.

Nothing shall be altered or constructed in or removed from the Common Area except upon the written consent of the Association.

10.11 Outside Installations.

No radio station or shortwave operators of any kind shall operate from any Lot or Building unless approved by the Board of Directors. Exterior radio antenna, television antenna, or other antenna may be erected or maintained in the Properties, subject to the approval of the Architectural Committee.

10.12 Insurance Rates.

Nothing shall be done or kept in the Properties which will increase the rate of insurance on any property insured by the Association without the approval of the Board, nor shall anything be done or kept in the Properties which would result in the

cancellation of insurance on any property insured by the Association or which would be in violation of any law.

10.13 Drilling.

No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind, shall be permitted upon or in any Lot, nor shall oil wells, tanks, tunnels or mineral excavations or shafts be permitted upon the surface of any lot or within five hundred feet (500') below the surface of the Properties. No derrick or other structure designed for use in boring for water, oil or natural gas shall be erected, maintained or permitted upon any Lot.

10.14 Further Subdivision.

No owner shall further partition or subdivide his Lot; provided, however, that this provision shall not be construed to limit the right of an Owner (1) to rent or lease all or any portion of his Lot by means of a written lease or rental agreement subject to the restrictions of this Declaration, so long as the Lot is not leased for transient or hotel purposes; (2) to sell his Lot; or (3) to transfer or sell any Lot to more than one person to be held by them as tenants-in-common, joint tenants, tenants by the entirety or as community property.

The terms of any such lease or rental agreement shall be subject in all respects to the provisions of this Declaration and Bylaws of the Association, and any failure by the Lessee of such lot to comply with the terms of this Declaration or the Bylaws of the Association shall constitute a default under the lease.

10.15 Drainage.

There shall be no interference with the established drainage pattern over the properties, unless an adequate alternative

provision is made for proper drainage and is first approved in writing by the Architectural Committee. For the purposes hereof, "established" drainage is defined as the drainage which exists at the time the overall grading of the properties is completed by the developer, or that which is shown on any plans approved by the Architectural Committee, which may include drainage from the Common Area over any Lot or Lots in the Properties.

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10.16 Water Supply System.

No individual water supply, sewage disposal system, or water softener system shall be permitted on any Lot in the Properties unless such system is designed, located, constructed and equipped in accordance with the requirements, standards and recommendations of the Salt Lake City Health Department, the Architectural Committee, and all other applicable governmental authorities.

ARTICLE XI

PARTY FENCES AND PARTY WALLS

11.1 Non-Party Fences.

Each fence which is built as part of the original construction of the Properties and which is constructed in the Common Area shall not be considered to be a party fence as such term is used herein. The Association shall be responsible for reasonable maintenance thereof, as provided herein.

11.2 General Rules of Law Apply to Party Fences.

Any fence constructed by the Owners and each hedge planted by the Owners by agreement among themselves, on the Lot line between adjoining Lots, with the prior approval of the Architectural Committee shall be called "Party Fences" and shall be subject to this Article XI. To the extent not inconsistent with the provisions of this Article XI, the general rules of law regarding Party Fences and liability for property damage to negligence or willful acts or omissions shall apply thereto. The Owner of each Lot adjoining and Party Fence shall be an "Owner" of the fence for the purposes of this Article.

11.3 General Rules of Law Apply to Party Walls.

Each wall which is built as a part of the original construction of the Buildings upon the Properties and placed on the dividing line between the Lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article XI, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto. The Owner of each Lot adjoining a Party Wall

shall be an "Owner" of the wall for purposes of this Article.

11.4 Sharing of Repair and Maintenance.

The cost of reasonable repair and maintenance of a Party Fence and Party Wall shall be shared by the Owners in proportion to their ownership thereto.

11.5 Destruction by Fire or Other Casualty.

If a Party Fence or a Party Wall is destroyed or damaged by fire or other casualty, any Owner thereof may restore it, and the other Owners thereof shall contribute to the cost of restoration thereof in proportion to such ownership without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

11.6 Right to Contribution Runs with Land.

The right of any Owner to contribution from any other Owner under this Article XI shall be appurtenant to the land and shall pass to such Owner's successors-in-interest.

11.7 Arbitration.

In the event any dispute arises concerning a Party Fence or a Party Wall, or under the provisions of this Article, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision shall be by a majority of all of the arbitrators.

ARTICLE XII

DAMAGE OR DESTRUCTION TO THE COMMON AREA; AREAS OF COMMON RESPONSIBILITY AND THE STRUCTURAL MAINTENANCE AREAS

Damage to or destruction of all or any portion of the Common Area, Areas of Common Responsibility and the Structural Maintenance Areas (collectively referred to as the Association's Insurable Areas) shall be handled in the following manner, notwithstanding any provision in this Declaration to the contrary:

(a) In the event of damage or destruction to the Association's Insurable Areas, the Association shall cause such Insurable Areas to be repaired and reconstructed substantially as it previously existed.

(b) If the insurance proceeds are insufficient to effect total restoration, than the Association shall cause such Insurable Areas to be repaired and reconstructed substantially as it previously existed and the difference between the insurance proceeds and the actual cost shall be levied as a Reconstruction Assessment equally against each of the Lot Owners in accordance with the provisions of Article VI, Section 6.4, of this Declaration.

(c) Each Owner shall be liable to the Association for any damage to the Association's Insurable Areas not fully covered by insurance which may be sustained by reason of the negligence or willful misconduct of said Owner or of his family and guests, both minor and adult.

Notwithstanding the foregoing, the Association reserves the right to charge an Individual Assessment equal to the increase, if any, in the insurance premium directly attributable to the damage caused by such Owner.

In the case of joint ownership of a Lot, the liability of such Owners shall be joint and several, except to the extent that the Association has previously contracted in writing with such joint owners to the contrary.

The cost of correcting such damage shall be an Individual Assessment against the Lot and may be collected as provided herein for the collection of Common Assessments.

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ARTICLE XIII

INSURANCE

13.1 Common Area; Areas of Common Responsibility; Structural Maintenance Areas.

The Association shall keep all buildings, improvements, fixtures, and all other insurable property of the Common Area, Areas of Common Responsibility and Structural Maintenance Areas (as defined herein) insured against loss or damage by fire for the full insurance replacement cost thereof, and shall obtain insurance against such other hazards and casualties as the members of the Association deem desirable, including extended coverage for not less than 100% of the replacement cost of insurable caution property.

The Association may also insure any other property whether real or personal owned by the Association, against loss or damage by fire and such other hazards as the Association may deem desirable, with the Association as the Owner and beneficiary of such insurance.

The insurance coverage required by this Declaration shall be written in the name of, and the proceeds thereof shall be payable to the Association for the benefit of the home owners.

Insurance proceeds shall be used by the Association for the repair or replacement of the property for which the insurance was carried. Premiums for all insurance carried by the Association are Common Expenses included in the Common Assessments made by the Association.

13.2 Insurance Obligations of Owners.

Each Owner may obtain and maintain any other additional insurance covering their

Dwelling Unit, contents and Lot and any other improvements, fixtures, and all other insurable property on his Lot.

13.3 Replacement or Repair of Property.

In the event of damage to or destruction of any part of the Improvements or Properties insured by the Association, the Association shall repair or replace the same from the insurance proceeds available, subject to the provisions of Article XII of this Declaration.

If such insurance proceeds are insufficient to cover the costs of such repair or replacement of the property damaged or destroyed, the Association may make a reconstruction assessment against all Lot Owners to cover the additional cost of repair or replacement not covered by the insurance proceeds, in addition to any other Common Assessments made against such Lot Owners, in accordance with the provisions of Article VI of this Declaration.

In the event of total destruction of all of the improvements in the Properties, the proceeds of the insurance carried by the Association shall be divided proportionately among the Lot Owners, such proportion being based upon the original base sales price of each proved lot at the time it was initially sold by the developer, provided that the balance then due on any valid encumbrance of record shall be first paid in order of priority, before the distribution of any proceeds to an Owner whose Lot is so encumbered.

13.4 Waiver of Subrogation.

As to each policy of insurance maintained by the Association, which will not be voided or impaired thereby, the Association hereby waives and releases all claims against the

Board, the Owners, the Manager and the agents and employees of each of the foregoing with respect to any loss covered by such insurance, whether or not caused by negligence or of breach of any agreement by said persons, but only to the extent that Insurance proceeds are received in compensation for such loss.

13.5 Liability Insurance.

The Association shall obtain comprehensive public liability insurance, including medical payments, liquor liability insurance and malicious mischief, in the amount of at least \$1,000,000 per occurrence for personal injury and/or property damage arising from the activities of the Association or with respect to property under its jurisdiction, including, if obtainable, a cross-liability endorsement insuring each insured against liability to each other insured.

Such insurance shall contain a "severability of interest" clause or endorsement which shall preclude the insurer from denying the claim of a Lot Owner because of negligent acts of the Association or other Lot Owners. Such insurance must include other coverage in kinds and amounts commonly required by private institutional mortgage investors for projects similar in construction, location and use.

(a) **Minimum Financial Rating of Carrier.** Each hazard insurance policy must be written by a hazard insurance carrier which has a financial rating by Best's insurance Reports of Class VI or better. Hazard insurance policies are also acceptable from an insurance carrier which has a financial rating by Best's Insurance Reports of Class V, provided it has a general policy holder's rating of at least A. Each carrier must be specifically licensed or authorized by law to transact business within the state of Utah.

(b) **No Assessments.** Policies are unacceptable where: (i) under the terms of the carrier's charter, bylaws or policy, contributions or assessments may be made against any Lot Owner, his first mortgage or the Federal Home Loan Mortgage Corporation (hereinafter referred to as FHLMC), or FHLMC's designee; or (ii) by the terms of the carrier's charter, bylaws or policy, loss payments are contingent upon action by the carrier's board of directors, policy holders, or members or (iii) the policy includes any limiting clauses (other than insurance conditions) which could prevent any Lot Owner, his first mortgagee or the Federal Loan Mortgage Corporation or FHLMC's designee.

(c) **Other Requirements.** All policies of hazard insurance must contain or have attached the standard mortgagee clause commonly accepted by private institutional mortgage investors in the area in which the Properties are located. The mortgagee clause must provide that the insurance carrier shall notify the Mortgage Servicer at least ten days in advance of the effective date of any reduction in or cancellation of the policy.

13.6 Fidelity Coverage.

The Association shall obtain fidelity coverage against dishonest acts on the part of directors, managers, trustees, employees or volunteers responsible for handling funds collected and held for the benefit of the Lot Owners or the Association. The fidelity bond or insurance must name the Association as the named insured and shall be written in an amount sufficient to provide protection which is in no event less than one and one-half times the insured's estimated annual operating expenses and reserves. In connection with such coverage, an appropriate endorsement to the policy to cover any persons who serve without compensation shall be added if the policy

would not otherwise cover volunteers.

13.7 Other Insurance and General.

The Association may also obtain, through the Board, Workers Compensation Insurance and other liability insurance as it may deem desirable insuring each Lot Owner and the Association, the Board of Directors and the Manager from liability in connection with the Common Area, the premiums for which shall be Common Expenses included in the Common Assessments made against the Owners. Such insurance policies shall have severability of interest clauses or endorsements which shall preclude the insurer from denying the claim of a Lot Owner because of the negligent acts of the Association or other Lot owners.

All policies shall be reviewed at least annually by the Board of Directors including an evaluation of the adequacy of the policy by a qualified representative of the insurance company writing the policies maintained by the Association and the limits of such policies may be increased at the discretion of the Board of Directors.

Notwithstanding any other provisions herein, the Association shall continuously maintain in effect such casualty, flood and liability and bonds and other insurance meeting the requirements for planned unit developments established by Federal National Mortgage Association (FNMA), the Government National Mortgage Association (GNMA) and/or the Federal Home Loan Mortgage Corp. (FHLMC), so long as there are any mortgages on any of the properties that have been purchased, insured or guaranteed, as the case may be, by FNMA, GNMA and/or FHLMC.

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ARTICLE XIV

MORTGAGE PROTECTION CLAUSE

Notwithstanding any and all provisions hereof to the contrary, in order to induce the Federal Home Loan Mortgage Corporation (FHLMC), the Government National Mortgage Association (GNMA) and the Federal National Mortgage Association (FNMA) to participate in the financing of the sale of Lots within the Properties, the following provisions are added hereto (and to the extent these added provisions conflict with any other provisions of the Declaration, these added provisions shall control):

(a) Each first Mortgagee of a Mortgage encumbering any Lot, at his written request, is entitled to written notification from the Association of any default by the Mortgagor of such Lot in the performance of such Mortgagor's obligations under this Declaration, the Articles of Incorporation of the Association or the Bylaws of the Association, which default is not cured within thirty days after the Association learns of such default.

(b) Each Owner, including every first Mortgagee of a Mortgage encumbering any Lot which obtains title to such Lot pursuant to the remedies provided in such Mortgage, or by foreclosure of such Mortgage, or by deed (or assignment) in lieu of foreclosure, shall be exempt from any "right of first refusal."

(1) Any right of first refusal contained in the planned unit development constituent documents, or hereinafter added shall not in impair the rights of a first mortgagee to (i) foreclose or take title to any Lot pursuant to the remedies provided in the mortgage, or (ii) accept a deed or an assignment in lieu of foreclosure in the event of default by a mortgagor, or (iii) interfere with the subsequent sale or lease of a unit so

acquired by the mortgagee.

(2) Any first mortgagee, first mortgage purchaser, successor or assigns, that obtains title to any Lot pursuant to the remedies provided in the mortgage or foreclosure of the mortgage, or pursuant to a deed given in lieu of foreclosure, will not be liable for such unit's unpaid dues or charges which accrue prior to the acquisition of title to such unit by the mortgagee.

(c) Each first Mortgagee of a Mortgage encumbering any Lot, or any first mortgage purchaser, successor or assigns, and any owner of a lot, or such first Mortgagee, its purchaser, successor or assigns, that obtains title to such Lot pursuant to the remedies provided in a Mortgage or by foreclosure of a Mortgage or by deed in lieu of foreclosure, shall not be liable for and shall take title to such Lot free and clear of any claims of unpaid assessments or charges against such Lot which accrued prior to the acquisition of title to such Lot by the Mortgagee.

(d) Unless at least two-thirds (2/3) of the first Mortgagees (based upon one vote for each Mortgage owned) of the individual units have given their prior written approval, the Association shall not be entitled to:

(1) by act or omission seek to abandon, partition, subdivide, encumber, sell or transfer the common property owned, directly or indirectly, by such Association for the benefit of the Lot Owners in the Association. This provision shall include, but not be limited to the Common Area. (The granting of easements for public utilities or for other public purposes consistent with the intended use of such common property by the Association shall not be deemed a transfer within the meaning

of this clause);

(2) change the method of determining the obligations, assessments, dues or other charges which may be levied against the Lot Owner;

(3) by act or omission change, waive or abandon any scheme of regulations, or enforcement thereof, pertaining to the architectural design or the exterior appearance of a Lot or Building, the exterior maintenance of a Building, the maintenance of the common property walks or common fences and driveways, or the upkeep of lawns and plantings in the Association;

(4) fail to maintain fire and extended coverage on insurable common property on a current replacement cost basis in an amount not less than one hundred percent (100%) of the insurable value (based on current replacement cost);

(5) use hazard insurance proceeds for losses to any common property for other than the repair, replacement or reconstruction of such common property.

(e) First mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against any common property located within the Common Area, and said mortgagee may pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for such common property within the Common Area and first mortgagees making such payments shall be owed immediate reimbursement therefore from the Association.

(f) No provision contained in this declaration or in the Articles of Incorporation or Bylaws of the Association or in any other declaration that the Association shall hereinafter shall give a Lot

Owner, or any other party, priority over any rights of a first mortgagee pursuant to its mortgage in the case of a distribution to such Lot Owners of insurance proceeds or condemnation awards for losses to or a taking of common property.

(g) First mortgagees shall have the right to examine the books and records of the Association during normal business hours.

(h) Association dues or charges shall include an adequate reserve fund for maintenance, repairs and replacement of those elements of the property in the Common Area that must be replaced on a periodic basis and are payable in regular installments rather than by special assessments.

(i) A first mortgagee, upon request, is entitled to written notification from the Association of any default in the performance by the individual Lot Owner of any obligation under the Association's constituent documents which is not cured within sixty (60) days.

(j) Any agreement for professional management of the Association may not exceed 3 years. Any such agreement must provide for termination by either party without cause and without payment of a termination fee on ninety (90) days or less written notice.

(k) In addition to the foregoing, the Board of Directors may enter into such contracts or agreements on behalf of the Association as are required in order to satisfy the guidelines of the VA, the FHA, the FHLMC, the FNMA or the GNWA or any similar entity, so as to allow for the purchase, insurance or guaranty, as the case may be, by such entities of first mortgages encumbering Lots with Buildings thereon. Each Owner hereby agrees that it will benefit the Association and the membership of the Association, as a

Class of potential Mortgage borrowers and potential sellers of their Buildings if such agencies approve the Properties as a qualifying subdivision under their respective policies, rules and regulations, as adapted from time to time.

NOTES

(l) Neither this Article XIV, nor Article XIII, nor Article VII Section 7.6 of this Declaration shall be amended without the approval of one hundred percent (100%) of all first mortgagees.

ARTICLE XV

GENERAL PROVISIONS

15.1 Enforcement.

This Declaration, the Articles of incorporation and the Bylaws may be enforced by the Association as follows:

(a) Breach of any of the covenants contained in the Declaration or the Bylaws and the continuation of any such breach may be enjoined, abated or remedied by appropriate legal proceedings by an Owner, by the Association or the successors-in-interest of the Association. Any judgment rendered in any action or proceeding pursuant hereto shall include a sum for attorney's fees in an amount as the court may deem reasonable, in favor of the prevailing party, as well as the amount of any delinquent payment, interest thereon, costs of collection and court costs.

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

(c) The remedies hereby provided for breach of the covenants contained in this Declaration or in the Bylaws shall be deemed cumulative, and none of such remedies shall be deemed exclusive.

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

(e) A breach of the covenants, conditions or restrictions contained in this Declaration or in the Bylaws shall not affect or impair the lien or charge of any bonafide first Mortgage made in good faith and for value on any residential Lot or the improvements thereon, provided, however, that any subsequent Owner of such property shall be bound by said covenants, whether such Owners title was acquired by foreclosure in a trustee's sale or otherwise.

15.2 Severability.

Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

15.3 Term.

The covenants, conditions and restrictions of this Declaration shall run with and bind the Properties, and shall inure to the benefit of and be enforceable by the Association or the Owner of any Lot or other Property subject to this Declaration, their respective legal representative, heirs, successors and assigns, perpetually so long as there are mortgages against the Properties. Thereafter, the Owners of a majority of the lots may sign and have recorded an instrument in writing agreeing to change such covenants and restrictions in whole or in part.

15.4 Interpretation.

The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development of a residential community and for the maintenance of the Common Area. The article and section headings have been inserted for convenience only and shall not

be considered or referred to in resolving questions of interpretation or construction. Unless the context requires a contrary construction, the singular shall include the plural and the plural the singular; and the masculine, feminine and neuter shall each include the masculine, feminine and neuter.

15.5 Amendments.

Subject to any rights of the VA or the FHA hereunder, this Declaration may be amended only by the affirmative vote or written consent of the Owners holding not less than Sixty-Seven percent (67%) of the voting power of the Members.

15.6 No Public Right or Dedication.

Nothing contained in this Declaration shall be deemed to be a gift or dedication of all or any part of the properties to the public, or for any public use.

15.7 Constructive Notice and Acceptance.

Every person who owns, occupies or acquires any right, title, estate or interest in or to any Lot or other portion of the properties does and shall be conclusively deemed to have consented and agreed to every limitation, restriction, easement, reservation, condition and covenant contained herein, whether or not any reference to these restrictions is contained in the instrument by which such person acquired an interest in the Properties, or any portion thereof.

15.8 Reservation of Easements.

Reciprocal easements are hereby reserved for the benefit of adjoining Lot Owners for the control, maintenance and repair of the utilities adjoining Lot Owners.

The Association expressly reserves for the benefit of all of the real property in the

Properties, and the Owners, reciprocal easements of access, ingress and egress over all Lots, and over the Common Area, for the use and enjoyment of the Lots in accordance with this Declaration, including without limitation for installation and repair of utility services, for drainage over, across and upon adjacent Lots for water resulting from the normal use of adjoining Lots, for maintenance and repair of any dwelling.

Such easements may be used by the Association, its successors, purchasers, and all Owners, their guests, tenants and invitees, residing on or temporarily visiting the Properties, for pedestrian walkways, vehicular access and such other purposes reasonably necessary for the use and enjoyment of a Lot and the Common Area.

No Owner of a Lot shall interfere with the established drainage pattern over his Lot from adjoining or other Lots. Each Owner of a Lot shall make adequate provision for drainage in the event he changes the established drainage over his Lot. For purposes of this Declaration, "Established Drainage" on any Lot is defined as the drainage pattern and facilities in existence at the time that such lot is conveyed to a purchaser from the Developer, in the event that any Building encroaches upon the Common Area and Facilities as a result of construction, reconstruction, repair, shifting, settlement or movement of any portion of the Properties, a valid easement for encroachment and for the maintenance of the same shall exist so long as the encroachment exists.

The Lot Owners of each Lot on which there is constructed a Building along or adjacent to said Lot line shall have an easement appurtenant to said lot over the Lot line to and over the adjacent Lot, for the purposes of accommodating any natural movement or settling of any Building located on said Lot, any encroachment of any Building due to minor engineering or construction variances, and any encroachment of eaves, roof

overhangs and architectural features as part of the original construction of any Building located on said Lot.

There is hereby expressly reserved for the benefit of the Association, its agents and employees, easements of access, ingress and egress, over the Lots and the Common Area for the purpose of maintaining, repairing and installing sewer pipelines and laterals, in accordance with the provisions of this Declaration, and as otherwise provided by law.

Owners of Lots within the properties, and all others who shall come in contact with the Properties covered hereby, shall use reasonable restraints with regard to said Properties when exercising any rights granted under this paragraph, and due regard shall be given to the aesthetic value, beautification, upkeep and maintenance of all of said Properties; there shall not be any interference with the use, benefit and enjoyment of any Owner with their Lot.

15.9 Notices.

Any notice permitted or required to be delivered as provided herein shall be in writing and may be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered twenty-four (24) hours after a copy of the same has been deposited in the United States mail, postage prepaid, addressed to any person at the address given by such person to the Association for the purpose of service of such notice, or to the address of such person's Lot, if no address has been given to the Association. Such address may be changed from time to time by notice in writing to the Association.

15.10 Conflict

In the event of a conflict between this

Declaration of Covenants, Conditions and Restrictions and Reservation of Easements, the Articles of Incorporation, or the Bylaws of Belmont Terrace, a Planned Unit Development, these Declarations made herein shall be controlling.

NOTES

IN WITNESS WHEREOF, the President and Secretary of the Association have executed this instrument on the 19 day of August, 2010.

**BELMONT TERRACE HOMEOWNERS
ASSOCIATION**

Denise Brooks

By:
Its President Denise Brooks

Susan W Draney

By:
Its Secretary SUSAN W DRANEY

State of Utah)
) ss.
County of Salt Lake)

On the 19 day of August, 2010, personally appeared before me Denise Brooks and Susan Draney, who being by me duly sworn did that say that they are the President and Secretary of the Association and that said instrument was signed and sealed in behalf of said Association by authority of its Board of Directors; and each of them acknowledged said instrument to be their voluntary act and deed.

Melissa Minor
Notary Public



Exhibit A

REAL PROPERTY DESCRIPTION FOR BELMONT TERRACE, A PLANNED UNIT DEVELOPMENT

All lots in the Belmont Terrace PUD Subdivision, which contains 29 lots and which includes parcel numbers 22282780210000 and 22282780280000.

Also described as:

BEGINNING AT A POINT WHICH IS N 0°04'02"E ALONG THE SECTION LINE 373.00 FEET FROM THE EAST QUARTER CORNER SECTION 28, TOWNSHIP 2 SOUTH, RANGE 1 SOUTH, SALT LAKE BASE AND MERIDIAN AND RUNNING THENCE N 89°37'46' W 330.44 FEET TO THE EAST LINE OF GRANDUER ESTATES N°2; THENCE N 0°04'09" E 612.98 FEET ALONG SAID EAST LINE OF SAID GRANDUER ESTATES N°2; THENCE EAST 187.42 FEET; THENCE S 0°04'02" W 112.78 FEET; THENCE EAST 143.00 FEET TO THE SECTION LINE; THENCE S 0°04'02" W 44.04 FEET ALONG SAID SECTION LINE; THENCE WEST 158.00 FEET; THENCE S 0°04'02" W 252.30 FEET; THENCE WEST 17.00 FEET; THENCE S 0°04'02" W 137.33 FEET; THENCE EAST 175.00 FEET TO THE SECTION LINE; THENCE S 0°04'02" W 68.67 FEET TO THE POINT OF BEGINNING. CONTAINING 2.821 ACRES.

TOGETHER WITH THE FOLLOWING DESCRIBED RIGHT-OF-WAY:

BEGINNING AT THE NORTHEAST CORNER OF LOT 202, GRANDUER ESTATES N° 2, ACCORDING TO THE OFFICIAL PLAT MAT THEREOF IN THE OFFICE OF THE SALT LAKE COUNTY RECORDER, AND RUNNING THENCE S 0°04'09"W 47.43 FEET; THENCE N 89°55'58" W 19.270 FEET TO THE BEGINNING OF A 154.449 FOOT RADIUS CURVE TO THE LEFT WHOSE RADIUS POINT BEARS S 0°04'09" W; THENCE ALONG THE ARC OF SAID CURVE A DISTANCE OF 31.18 FEET THROUGH A CENTRAL ANGLE OF 11° 34'02" TO THE BEGINNING OF A 173.965 FOOT RADIUS CURVE TO THE RIGHT WHOSE RADIUS POINT BEARS N 11°30'00" W; THENCE ALONG THE ARC OF SAID CURVE A DISTANCE OF 34.917 FEET THROUGH A CENTRAL ANGLE OF 11°30'; THENCE WEST 15.00 FEET TO THE WEST LINE OF THE BEFORE MENTIONED LOT 202; THENCE NORTH 54.00 FEET; THENCE EAST 99.98 FEET TO THE POINT OF BEGINNING, BEING FOR INGRESS AND EGRESS TO THE ABOVE DESCRIBED PROPERTY AND FOR PUBLIC UTILITIES AND DRAINAGE EASEMENTS.

Exhibit B

**Bylaws
of
Belmont Terrace Homeowners Association**

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ARTICLE I

PLAN OF LOT OWNERSHIP

1.1 Name and Location

These are the Bylaws of Belmont Terrace Homeowners Association, Inc. (the "Association"). Belmont Terrace is a community of owners that has been subjected to an Amended and Restated Declaration of Covenants, Conditions and Restrictions for Belmont Terrace Homeowners Association recorded as Entry No. _____, in Book _____ beginning at Page _____, Recorder's Office of Salt Lake County, Utah (the "Declaration"). These Bylaws are applicable to all real property described in the Declaration and any supplements or amendments thereto (the "Property").

1.2 Principal Office

The principal office of the Association shall be located at 7265 S. 1950 E. Salt Lake City, Utah 84121 or such other office as may be designated by the Board of Directors from time to time.

1.3 Purposes

This Association is formed to serve as a means through which the Lot Owners may take action with regard to the administration, management, and operation of the Belmont Terrace Subdivision.

1.4 Applicability of Bylaws

The Association, all Lot Owners and all persons using the Property shall be subject to these Bylaws and to all rules and regulations which may be adopted pursuant to the Declaration and these Bylaws.

1.5 Composition of Association

The Association shall be composed of all Lot Owners, and the Association, itself, to the extent it owns any Lot or Lots of the Property.

1.6 Incorporation of Association

(a) The Association shall be incorporated under the Utah Revised Nonprofit Corporation Act. The Articles of Incorporation of the Association shall be consistent with the Declaration and these Bylaws, and these Bylaws shall constitute the Bylaws of the incorporated association. The name of the association shall be "Belmont Terrace Homeowners Association, Inc."

(b) In the event the incorporated Association shall at any time be dissolved, whether inadvertently or deliberately, it shall automatically be succeeded by an unincorporated association of the same name. In that event, all of the property, powers and obligations of the incorporated association existing immediately prior to its dissolution shall thereupon automatically vest in the successor unincorporated association, which vesting shall thereafter be confirmed and evidenced by appropriate conveyances and assignments by the incorporated association. To the greatest extent possible, any such successor unincorporated association shall be governed by the Articles of Incorporation and Bylaws of the incorporated association as if they had been made to constitute the governing documents of the unincorporated association.

1.7 Definitions

The definitions contained in or adopted by the Declaration shall be applicable to these Bylaws.

ARTICLE II

MEETING OF ASSOCIATION

2.1 *Place of Meeting*

The Association shall hold meetings at such suitable place convenient to the Owners as may be designated by the Board of Directors from time to time.

2.2 *Annual Meetings*

The date of the annual meeting of the Members shall be held on the second Thursday of each January, or on such other annual date and time fixed by formal resolution of the Board of Directors. If the day for the annual meeting of the Members is a legal holiday, the meeting will be held at the same hour on the first day following which is not a legal holiday. The annual meeting shall be at a place within the State of Utah selected by the Board of Directors.

2.3 *Special Meetings*

Special meetings of the members may be called at any time by the president or by the Board of Directors, or upon written request of at least twenty-five percent (25%) of the members stating the purpose of the meeting. Business transacted at a special meeting shall be confined to the purposes stated in the notice.

2.4 *Notice of Meetings*

Written notice of each meeting of the members shall be given by, or at the direction of, the Secretary or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, at least fifteen (15) days but not more than sixty (60) days before such meeting to each member entitled to vote thereat, addressed to the member's address last appearing on the

books of the Association, or supplied by such member to the Association for the purpose of notice. The notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting.

2.5 *Voting*

Each Lot shall be allocated one vote in the affairs of the Association as provided in the Declaration. The Board of Directors shall be entitled to vote on behalf of any Lot which has been acquired by or on behalf of the Association, except the Board of Directors shall not be entitled to vote such Lots in any election of directors.

2.6 *Proxies, Absentee Ballots and Rights of Mortgagees.*

(a) Proxies

(1) A vote may be cast in person or by proxy. A proxy given by an Owner to any person who represents the Owner at meetings of the Association shall be in writing, dated and signed by such Owner and shall be filed with the secretary in accordance with procedures adopted by resolution of the Board of Directors.

(2) No proxy shall be valid after the meeting for which it was solicited, unless otherwise expressly stated in the proxy; however, no proxy may be valid for more than eleven (11) months after the date of execution.

(3) No proxy shall be valid if it purports to be revocable without notice.

(4) An Owner may not revoke a

proxy given except by actual notice of revocation to the person presiding over a meeting of the Association or to the Board of Directors if a vote is being conducted by written ballot in lieu of a meeting pursuant to Section 2.12 below.

(5) Every proxy shall automatically cease upon sale of the Lot.

(b) Absentee Ballots. At the discretion of the Board of Directors, a vote may be cast by absentee ballot.

(c) Mortgage Rights.

(1) An Owner may pledge or assign the owner's voting rights to a Mortgagee. In such a case, the Mortgagee or its designated representative shall be entitled to receive all notices to which the owner is entitled hereunder and to exercise the owner's voting rights from and after the time that the Mortgagee shall have given written notice of the pledge or assignment to the Board of Directors.

(2) Any first Mortgagee may designate a representative to attend all or any meetings of the Association.

2.7 *Fiduciaries and Joint Owners.*

(a) Fiduciaries. An executor, administrator, guardian, or trustee may vote in person or by proxy, at any meeting of the Association with respect to any Lot owned or held in such capacity, whether or not the same shall have been transferred to his or her name; provided, that the person shall satisfy the secretary that he or she is the executor, administrator, guardian, or trustee holding the Lot in such capacity.

(b) Joint Owners. Whenever any Lot is owned by two or more persons jointly, according to the records of the Association, the vote of the Lot may be exercised by any

one of the Owners then present, in the absence of protest by a co-owner. In the event of a protest, no one co-owner shall be entitled to vote without the approval of the majority of the co-owners. In the event of an impasse among the co-owners, the vote of the Lot shall be disregarded completely in determining the proportion of votes given with respect to the matter.

2.8 *Quorum of Owners.*

(a) Except as otherwise provided in the Declaration or these Bylaws, at any meeting of the Association, Owners holding thirty percent (30%) of the voting rights, present in person or by proxy, or by absentee ballot if permitted under Section 2.6(b) above, shall constitute a quorum.

(b) The subsequent ratification of an Owner, in the action taken at a meeting shall constitute the presence of the person for the purpose of determining a quorum. When a quorum is once present to organize a meeting it cannot be broken by the subsequent withdrawal of an Owner or Owners.

(c) If any meeting of members cannot be organized because of a lack of quorum, the members who are present, either in person or by proxy, may adjourn the meeting from time to time until a quorum is present. The adjournment provisions of this subsection (c) do not apply to action by written ballot in lieu of a meeting under Section 2.12 below.

2.9 *Binding Vote*

Approval of a majority of the votes cast by persons entitled to vote, excluding blanks or abstentions, after establishing a quorum, shall be binding upon all for all purposes except where a higher percentage vote is required by law, the Declaration, or these Bylaws.

2.10 Order of Business.

The order of business at annual meetings of the Association shall be:

- (a) Calling of the roll and certifying of proxies;
- (b) Proof of notice of meeting or waiver of notice;
- (c) Reading of minutes of preceding meeting;
- (d) Reports of officers;
- (e) Reports of committees, if any;
- (f) Election of directors;
- (g) Unfinished business;
- (h) New business; and
- (i) Adjournment.

2.11 Meeting Procedure

Unless other rules of order are adopted by resolution of the Board of Directors:

- (a) Meeting of the Association shall be conducted according to the latest edition of Robert's Rules of Order published by the Robert's Rules Association.
- (b) A decision of the Association may not be challenged because the appropriate rules of order were not used unless a person entitled to be heard was denied the right to be heard and raised an objection at the meeting in which the right to be heard was denied.
- (c) A decision of the Association is deemed valid without regard to procedural errors related to the rules of order one year after the decision is made unless the error

appears on the face of a written instrument memorializing the decision.

2.12 Action by Written Ballot in Lieu of a Meeting

(a) Action By Written Ballot. At the discretion of the Board of Directors, any action, except election or removal of directors, that may be taken at any annual, regular or special meeting of the Association may be taken without a meeting if the Association delivers a written ballot to every Owner that is entitled to vote on the matter not less than twenty (20) days prior to the date on which the ballots must be received by the Association in order to be counted.

(b) Form and Effect of Ballot

(1) The written ballot must set forth each proposed action and provide an opportunity to vote for or against each proposed action.

(2) A written ballot may not be revoked.

(c) Information Required in Ballot Solicitations. All solicitations for votes by written ballot must:

(1) State the number of responses needed to meet any applicable quorum requirements and the total percentage of votes needed for approval.

(2) Specify the period during which the Association will accept written ballots for counting, which period shall end on the earliest of the following unless the vote is pursuant to the secrecy procedure described in Subsection (d) of this section:

(i) The date on which the Association has received a sufficient number of approving ballots to pass the proposal;

(ii) The date on which the Association has received a sufficient number of disapproving ballots to render the proposal impossible of passage; or

(iii) A date certain on which all ballots must be returned to be counted.

(d) **Secrecy Procedure.** The Board of Directors may elect to conduct a vote pursuant to this section by a secrecy procedure whereby a written ballot is accompanied by:

(1) A secrecy envelope;

(2) A return identification envelope to be signed by the owner; and

(3) Instructions for marking and returning the ballot.

(e) **Determination of Vote.** The outcome of a vote by written ballot in lieu of a meeting shall be determined by the Board of Directors within forty-eight (48) hours of the deadline for return of ballots, or in the event the ballot return date is postponed, within forty-eight (48) hours of the postponed date. Matters that may be voted on by written ballot shall be deemed approved or rejected as follows:

(1) If approval of a proposed action would otherwise require a meeting at which a certain quorum must be present and at which a certain percentage of total votes cast is required to authorize the action, the proposal will be deemed to be approved when the date for return of ballots has passed, a quorum of owners has voted and the required percentage of approving votes has been received. Otherwise, the proposal shall be deemed to be rejected.

(2) If approval of a proposed action otherwise would require a meeting at

which a specified percentage of owners must authorize the action, the proposal shall be deemed to be approved when the percentage of total votes cast in favor of the proposal equals or exceeds such required percentage. The proposal shall be deemed to be rejected when the number of votes cast in opposition renders approval impossible or when both the date for return of ballots has passed and such required percentage has not been met.

(3) Except as provided in Subsection (e)(4) of this section, votes may be counted from time to time before the final return date to determine whether the proposal has passed or failed by the votes already cast on the date they are entered.

(4) Written ballots that are returned in secrecy envelopes may not be examined or counted before the deadline for returning ballots has passed.

(f) **Owner Notification of Ballot Results.** Each Owner shall be notified within ten (10) days after the ballots have been counted, by mail or other delivery of written notice, of the results of the ballot meeting or that a quorum of ballots was not returned.

2.13 Action Without a Meeting

(a) Any action that may be taken at any annual, regular or special meeting of the Association, may be taken without a meeting and without solicitation of written ballots pursuant to Section 2.12 above, if the action is taken by all of the owners entitled to vote on the action.

(b) The action must be evidenced by one or more written consents describing the action taken, signed by all of the owners entitled to vote on the action, and delivered to the Association for inclusion in the minutes or filing with the Association records.

(c) Action taken under this section is effective when the last owner signs the consent, unless the consent specifies an earlier or later effective date. A consent signed under this section has the effect of a meeting vote and may be described as such in any document.

NOTES

ARTICLE III

BOARD OF DIRECTORS; SELECTION; TERM OF OFFICE

3.1 Number and Qualification

(a) The affairs of the Association shall be governed by a Board of Directors composed of five (5) directors elected as provided in Section 3.2 below.

The Board of Directors may increase, by resolution; the number of members of the Board; provided that the Owners shall have the sole right to elect the new Board members.

(b) All Directors must be Owners or the co-owner of a Lot. However, multiple owners of the same Lot may not serve as Directors simultaneously. An officer or employee of a corporation, a partner of a partnership, a trustee of a trust, a personal representative of an estate or an employee of a trust or estate, may serve on the Board if the corporation, partnership, trust or estate owns a Lot.

3.2 Election and Term of Office

(a) The term of office of the Directors shall be staggered. At each annual meeting the Members shall elect one-third (1/3) of the total number of Directors. The term of each Director shall be two years. No person may serve as a director for more than three consecutive terms.

(b) Nomination to the Board of Directors and election shall be as specified in Article IV below.

(c) All directors shall hold office until their respective successors shall have been elected by the members.

3.3 Vacancies

Vacancies on the Board of Directors, caused by any reason other than the removal of a director by a vote of the Association, shall be filled for the balance of the term of each directorship by vote of a majority of the remaining directors even though they may constitute less than a quorum. Each person so elected shall be a director until a successor is elected upon expiration of the term for which the person was elected by the other directors to serve.

3.4 Removal of Directors

(a) At any annual or special meeting, other than a meeting by written ballot conducted pursuant to Section 2.12 above, any one or more of the directors, other than interim directors, may be removed, with or without cause, by a majority of the Owners present in person or by proxy, at a duly constituted meeting. A successor may be elected at that meeting to fill the vacancy thus created. The notice of the meeting must state that the removal is to be considered and any director whose removal has been proposed by the owners may be given an opportunity to be heard at the meeting.

(b) The Board of Directors, pursuant to Section 6.2(c) below, may declare the office of a member of the Board of Directors to be vacant in the event such member is absent from three (3) consecutive regular meetings of the Board of Directors. The vacancy shall be filled as provided in Section 3.3 above.

3.5 Compensation

No director shall receive compensation for services he or she may render to the Association, provided however, that a

director may serve the Association in some other capacity and receive compensation therefor. Any director may be reimbursed for actual expenses incurred in the performance of his or her duties.

NOTES

ARTICLE IV

NOMINATION AND ELECTION OF DIRECTORS

4.1 *Nomination*

NOTES

(a) **Method of Nomination.** Nomination for election to the Board of Directors, including action under Section 3.2 above, shall be made by a Nominating Committee. Nominations may also be made from the floor at the annual meeting or any special meeting held pursuant to Section 3.4 above. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies

(b) **Nominating Committee.** The Nominating Committee shall consist of a chairman, who shall be a member of the Board of Directors; and two (2) or more members of the Association. The Nominating Committee shall be appointed by the president of the Association prior to each annual meeting until the close of the next annual meeting and such appointment shall be announced at each annual meeting.

4.2 *Election*

Election to the Board of Directors shall be by written ballot. At the election, the members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected (i.e., Directors are elected by plurality rather than majority vote.) Cumulative voting is not permitted.

ARTICLE V

MEETINGS OF DIRECTORS

5.1 Regular Meetings

Regular meetings of the Board of Directors shall be held at least quarterly, at such place and hour as may be fixed from time to time by resolution of the Board. Should the meeting fall upon a legal holiday or weekend, then that meeting shall be held at the same time on the next day which is not a legal holiday or weekend.

(a) Procedure and Business. Until the election of new officers, the meeting shall be chaired by the outgoing president, or in the absence of such person, the outgoing secretary, regardless of whether the outgoing president or secretary is a member of the newly constituted board.

5.2 Special Meetings

Special meetings of the Board of Directors shall be held when called by the president of the Association, or by any two (2) directors, after not less than three (3) days notice to each director by mail, including electronic mail if approved by the Board, telephone, or telegraph. The notice must state the time, place, and purpose of the meeting.

5.3 Meeting Procedure

Unless other rules of order are adopted by resolution of the Board of Directors:

(a) Meeting of the Board of Directors shall be conducted according to the last edition of Robert's Rules of Order published by the Robert's Rules Association.

(b) A decision of the Board of Directors may not be challenged because the appropriate rules of order were not used unless a person entitled to be heard was

denied the right to be heard and raised an objection at the meeting in which the right to be heard was denied.

(c) A decision of the Board of Directors is deemed valid without regard to procedural errors related to the rules of order one year after the decision is made unless the error appears on the face of a written instrument memorializing the decision.

5.4 Open Meetings; Executive Sessions

(a) Open Meetings. Except as provided in Subsection (b) of this section, all meetings of the Board of Directors shall be open to Lot Owners. However, no Owner shall have a right to participate in the Board of Directors meeting unless the Owner is also a member of the Board. The president shall have the authority to exclude an Owner who disrupts the proceedings at a Board meeting.

(b) Executive Sessions. In the discretion of the Board, the following matters may be considered in executive session:

(1) Consultation with legal counsel concerning the rights and duties of the Association regarding existing or potential litigation or criminal matters;

(2) Personnel matters, including salary negotiations and employee discipline;

(3) The negotiation of contracts with third parties; or

(4) Collection of unpaid assessments.

(c) Executive Session Procedure.

(1) Except in the case of an emergency, the Board of Directors shall vote in an open meeting whether to meet in executive session. If the Board votes to meeting in executive session, the president or other presiding officer shall state the general nature of the action to be considered and, as precisely as possible, when and under what circumstances the deliberations can be disclosed to owners. The statement, motion or decision to meet in executive session must be included in the minutes of the meeting.

(2) A contract or an action considered in executive session does not become effective unless the Board, following the executive session, reconvenes in open meeting and votes on the contract or action, which must be reasonably identified in the open meeting and included in the minutes.

5.5 Meetings by Telephonic or Electronic Communication.

In the event of an emergency, meetings of the Board of Directors may be conducted by telephonic communication or by the use of a means of communication that allows all members of the Board of Directors participating to hear each other simultaneously or otherwise to be able to communicate during the meeting.

5.6 Action Taken Without a Meeting

In the case of any emergency, the directors shall have the right to take any action in the absence of a meeting which they could take a regular or special meeting by obtaining the written approval of all the directors in accordance with U.C.A. 16-6a-813. Any action so approved shall have the same effect as though taken at a meeting of the Directors

5.7 Notice to Owners of Meetings of Board.

For other than emergency meetings, notice of each Board of Directors meeting must be posted at a place or places on the property at least three (3) days prior to the meeting, or notice must be provided by a method otherwise reasonably calculated to inform the Owners of the meeting.

5.8 Waiver of Notice

Any director may, at anytime, waive notice of any meeting of the Board of Directors in writing, and the waiver shall be deemed equivalent to the giving of the notice. Attendance by a director at any meeting of the board shall constitute a waiver of notice by the director, except where the director attends the meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. If all directors are present at any meeting of the board, no notice to directors shall be required and any business may be transacted at the meeting.

5.9 Quorum and Acts

At all meetings of the Board of Directors a majority of the existing directors shall constitute a quorum for the transaction of business and the acts of the majority of the directors present shall be the acts of the Board of Directors. If, at any meeting of the Board of Directors, there be less than a quorum present, the majority of those present may adjourn the meeting from time to time. At any such adjourned meeting any business which might have been transacted at the meeting as originally called may be transacted without further notice.

NOTES

ARTICLE VI

POWERS, RIGHTS AND DUTIES OF THE BOARD OF DIRECTORS

6.1 General Powers and Duties

The Board of Directors shall have the powers and duties necessary for the administration of the affairs of the Association and may do all such acts and things as are not by law, the Declaration or by these Bylaws directed to be exercised and done by the Owners.

6.2 Specific Powers

In addition to powers imposed by the Declaration, these Bylaws or by resolutions of the Association, the Utah Revised Nonprofit Corporation Act or other applicable law, the Board of Directors shall have the power to:

- (a) Adopt and publish rules and regulations governing the use of the Common Area, including any improvements and amenities located thereon, and the personal conduct of the members and their guests thereon, and to establish penalties for the infraction thereof.
- (b) As specified in the Declaration, suspend the voting rights and right to use of any recreational facilities located on any Common Area of a member during any period in which such member shall be in default in the payment of any assessment levied by the Association. Such rights may also be suspended, after notice and hearing, for a period not to exceed sixty (60) days for infraction of published rules and regulations or any provisions of the Declaration.
- (c) Declare the office of a member of the Board of Directors to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board of Directors.

(d) Employ a manager, independent contractor, or such other individuals, entities or employees as they deem necessary and to prescribe their duties.

6.3 Specific Duties

In addition to duties imposed by the Declaration, these Bylaws or by resolutions of the Association, the Utah Revised Nonprofit Corporation Act or other applicable law, the Board of Directors shall have the duty to:

- (a) Cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the members at the annual meeting of the members, or at any special meeting when such a statement is requested in writing by twenty-five percent of the members who are entitled to vote;
- (b) Supervise all officers, agents and employees of this Association, and to see that their duties are properly performed;
- (c) As more fully provided in the Declaration, to:
 - (1) Fix the amount of the Annual Assessment against each Lot at least thirty (30) days in advance of each Annual Assessment period;
 - (2) Send written notice of each Assessment to every Owner subject thereto at least thirty (30) days in advance of each Annual Assessment period;
 - (3) Foreclose the lien against any Lots for which Assessments are not paid within thirty (30) days after the due date

thereof or to bring an action at law against the Owner personally obligated to pay the same.

(d) Issue, or cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid in accordance with the Declaration. A reasonable charge may be made by the Board for the issuance of these certificates.

(e) Procure and maintain adequate liability and hazard insurance on property owned by the Association or maintained by the Association if required by the Declaration or any supplemental declaration annexing Additional Property to the Community.

(f) Cause all officers or employees having fiscal responsibilities to be bonded as it may deem appropriate.

(g) Cause to be maintained the Common Area and any other areas shown on the Plat that may be owned by governmental entities who are not maintaining such areas and any other property required to be maintained by the Declaration or any supplemental declaration annexing Additional Property to the Community.

(h) Establish and maintain the financial accounts of the Association.

(i) Establish a budget for payment of all Common Expenses of the Association, and institute and maintain a voucher system for payment, which shall require a sufficient number of signatories thereon as may be reasonably necessary to prevent any misuse of the Association's funds.

(j) Prepare and distribute annual financial statements for the Community to each Owner.

(k) At least annually, the review of the insurance coverage of the Association as provided in the Declaration.

(l) File the Annual Report with the Utah Secretary of State, Department of Corporations and Commercial Code.

(m) Prepare or cause to be prepared and filed any required income tax returns or forms.

(n) Appoint an Architectural Review Committee, as provided in the Declaration; and a Nominating Committee, as provided in these Bylaws. In addition, the Board of Directors shall appoint such other committees as deemed appropriate in carrying out its purpose.

NOTES

ARTICLE VII

OFFICERS AND THEIR DUTIES

7.1 Designation and Qualification

(a) Designation. The principal officers of the Association shall be a president, a vice-president, a secretary, and a treasurer. The Directors may designate the office of assistant treasurer and assistant secretary.

(b) Qualifications. All officers of the Association shall be members of the Board of Directors and any Director may be an officer of the Association.

(c) Multiple Offices. The offices of secretary and treasurer may be held by the same person but no person shall simultaneously hold more than one of any of the other offices specified in subsection (a) of this section.

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

7.2 Election and Vacancies

The officers of the Association may be elected by the Board of Directors at any Board of Directors' meeting to serve until their respective successors are elected at the next organizational meeting. If any office becomes vacant by reason of death, resignation, removal disqualification or any other cause, the Board of Directors shall elect a successor to fill the unexpired term at any meeting of the Board of Directors.

7.3 Resignation

Any officer may resign at any time by giving written notice to the Board, the president or

the secretary. The resignation shall take effect on the date of receipt of the notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of the resignation shall not be necessary to make it effective.

7.4 Removal of Officers

Officers shall hold office at the pleasure of the Board of Directors. Upon an affirmative vote of a majority of the members of the Board of Directors any officer may be removed, either with or without cause.

7.5 Compensation of Officers

No officer who is a member of the Board of Directors may receive any compensation from the Association for acting as an officer, unless the compensation is authorized by a binding vote of the Owners. The Board of Directors may fix any compensation to be paid to any officers who are not also directors.

7.6 Duties of Officers

The duties of the officers are as follows:

(a) President. The president shall be the chief executive officer of the Association. He or she shall preside at all meetings of the Association and of the Board of Directors. The president shall have all of the general powers and duties which are usually vested in the office of president of an association. The president shall have the authority to sign all leases, mortgages, deeds, and other written instruments and shall co-sign all checks and promissory notes.

(b) Vice-President. The vice-president shall act in the place and stead of the

president in the event of the president's absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required by the Board. The Vice-President shall likewise have the authority to sign all leases, mortgages, deeds and other written instruments.

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(c) Secretary. The secretary shall keep the minutes of all meetings of the Board of Directors and the minutes of all meetings of the Association, have charge of such books and papers as the Board of Directors may direct, and in general, perform all of the duties incident to the office of secretary.

(d) Treasurer. The treasurer shall have responsibility for the Association's funds and securities not otherwise held by a managing agent, and shall be responsible for causing full and accurate accounts of all receipts and disbursements to be kept in books belonging to the Association. The treasurer shall be responsible for causing the deposit of all monies and other valuable effects in the name and to the credit of the Association in such depositories as may, from time to time, be designated by the Board of Directors and disbursing funds as directed by resolution of the Board.

ARTICLE VIII

INDEMNIFICATION OF OFFICERS AND DIRECTORS

Each officer and director of the Association, in consideration of his or her services, shall be indemnified by the Association to the extent permitted by law against expenses and liabilities reasonably incurred by him or her in connection with the defense of any action, suit or proceeding, civil or criminal, to which he or she may be a party by reason of being or having been a director or officer of the Association. The foregoing right to indemnification shall be exclusive of any other rights to which the director or officer or person may be entitled by law or agreement or vote of the members or otherwise.

NOTES

ARTICLE IX

RECORDS AND AUDITS

The Association shall maintain within the State of Utah all documents, information and other records of the Association in accordance with the Declaration, these Bylaws, and the Utah Revised Nonprofit Corporation Act in the manner prescribed by a resolution adopted by the Board of Directors.

9.1 General Records

(a) The Board of Directors and managing agent or manager, if any, shall keep detailed records of the actions of the Board of Directors and managing agent or manager; minutes of the meetings of the Board of Directors; and minutes of the meeting of the Association.

(b) The Board of Directors shall maintain a Book of Resolutions containing the rules, regulations, and policies adopted by the Association and Board of Directors.

(c) The Board of Directors shall maintain a list of Owners and a list of all Mortgagees of Lots. The list of Owners shall specify whether the Owner is an Owner in Good Standing or a Suspended Owner.

(d) The Association shall retain within this State all records of the Association for not less than the period specified in applicable law, except that:

(1) Documents of a permanent nature such as the following, if available, must be maintained as permanent records of the Association:

(i) The as-built architectural, structural, engineering, mechanical, electrical and plumbing plans;

(ii) The original specifications, indicating all subsequent material changes;

(iii) The plans for underground site service, site grading, drainage and landscaping together with cable television drawings;

(iv) Any other plans and information relevant to future repair or maintenance of the property; and

(v) A list of the general contractor and the electrical, heating and plumbing subcontractors responsible for construction or installation of Common Areas;

(2) Proxies and ballots must be retained for one year from the date of determination of the vote.

9.2 Records of Receipts and Expenditures

The Board of Directors or its designee shall keep detailed, accurate records in chronological order of the receipts and expenditures affecting the Community, itemizing the maintenance and repair expenses of the Common Area or Association property and any other expenses incurred.

9.3 Assessment Roll

The assessment roll shall be maintained in a set of accounting books in which there shall be an account for each Lot. The account shall designate the Lot number, the name and address of the Owner or Owners, the amount of each Assessment against the Owners, the dates and amounts in which the Assessment comes due, the amounts paid

upon the account, and the balance due on the Assessments.

9.4 Payment of Vouchers

The treasurer shall pay all vouchers up to One Thousand Dollars (\$1,000) signed by the president, managing agent, manager, or other person authorized by resolution of the Board of Directors. Any voucher in excess of \$1,000 shall require the signature of the president.

9.5 Financial Reports and Audits

(a) An annual report of the receipts and expenditures of the Association and a balance sheet showing assets and liabilities shall be rendered by the Board of Directors to all Owners and to all mortgagees of Lots who have requested the same in writing within ninety (90) days after the end of each fiscal year.

(b) From time to time the Board of Directors, at the expense of the Association, may obtain an audit by a certified public accountant or other financial review of the books and records pertaining to the Association and furnish copies thereof to the Owners and Mortgagees of Lots. At any time any Owner or Mortgagee may, at such Owner's or Mortgagee's own expense, cause an audit or inspection to be made of the books and records of the Association.

9.6 Inspection of Records by Owners

(a) Except as otherwise provided in Section 9.7 below, all records of the Association shall be reasonably available for examination by an Owner and any Mortgagee of a Lot pursuant to rules adopted by resolution of the Board of Directors.

(b) The Board of Directors shall maintain a copy, suitable for the purposes of duplication, of the following:

(1) The Declaration, Bylaws and any amendments in effect or supplements thereto, and rules and regulations of the Association.

(2) The most recent financial statement prepared pursuant to Section 9.5 above.

(3) The current operating budget of the Association.

(c) The Association, within five (5) business days after receipt of a written request by an Owner, shall furnish the requested information required to be maintained under Subsection (b) of this section.

(d) The Board of Directors, by resolution, may adopt reasonable rules governing the frequency, time, location, notice and manner of examination and duplication of Association records and the imposition of a reasonable fee for furnishing copies of any documents, information or records described in this section. The fee may include reasonable personnel costs incurred to furnish the information.

9.7 Records Not Subject to Inspection

Records kept by or on behalf of the Association may be withheld from examination and duplication to the extent the records concern:

(a) Personnel matters relating to a specific identified person or a person's medical records.

(b) Contracts, leases and other business transactions that are currently under negotiation to purchase or provide goods or services.

(c) Communications with legal counsel

that relate to matters specified in Subsections (a) and (b) of this section.

NOTES

(d) Disclosure of information in violation of law.

(e) Documents, correspondence or management or board reports compiled for or on behalf of the association or the board of directors by its agents or committees for consideration by the board of directors in executive session held in accordance with Section 5.4(b) above.

(f) Documents, correspondence or other matters considered by the board of directors in executive session held in accordance with Section 5.4(b) above.

(g) Files of individual Owners, other than those of a requesting Owner or requesting mortgagee of an individual Owner, including any individual Owner's file kept by or on behalf of the association.

9.8 *Notice of Sale or Mortgage*

Immediately upon the sale or Mortgage of any Lot, the Owner shall promptly inform the secretary or manager of the name and address of the purchaser, vendee or Mortgagee.

ARTICLE X

ASSESSMENTS

10.1 Assessment Obligation

NOTES

Each member is obligated to pay to the Association Assessments specified in the Declaration which are secured by a continuing lien upon the lot against which the assessment is made.

10.2 Delinquent Assessments

Any Assessments or portions thereof which are not paid when due shall be delinquent and subject to the remedies specified in the Declaration. The Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the Lot, and interest, costs and reasonable attorneys' fees of any such action shall be added to the amount of such assessment.

10.3 No Waiver

No Owner may waive or otherwise escape liability for the Assessment provided for in the Declaration by non-use of the Common Area or abandonment of the Owner's Lot.

ARTICLE XI

AMENDMENTS

11.1 How Proposed

NOTES

Amendments to the Bylaws shall be proposed by either a majority of the Board of Directors or by Owners holding at least thirty percent (30%) of the voting rights. The proposed amendment must be reduced to writing and must be included in the notice of any meeting at which action is to be taken thereon.

11.2 Adoption

Amendments may be approved by the Association at a duly constituted meeting or by written ballot in lieu of a meeting conducted pursuant to Section 2.12 above for such purpose. Approval of at least two-thirds (2/3) of the votes cast by persons entitled to vote, excluding blanks or abstentions, after establishing a quorum, is required for approval of any amendment.

11.3 Execution and Recording

An amendment shall not be effective until certified by the president and secretary of the Association as being adopted in accordance with these Bylaws, acknowledged and recorded with the County Recorder's Office.

11.4 Challenge to Validity

An adopted amendment shall be deemed to be fully ratified by the Members after one (1) year from the date of recording so that no action to challenge the validity of an adopted amendment may be brought more than one (1) year after the amendment is recorded.

ARTICLE XII

MISCELLANEOUS

12.1 Notices

(a) Association. All notices to the Association or the Board of Directors shall be sent care of the managing agent or, if there is no managing agent, to the principal office of the Association or to such other address as the Board of Directors may hereafter designate from time to time.

(b) Owners.

(1) Except as otherwise provided in the Declaration, these Bylaws or law, all notices to any Owner shall be sent to such address as may have been designated by him or her, from time to time, in writing to the Board of Directors, or if no address has been designated, then to the Owner's Lot.

(2) If a lot is jointly owned or the lot has been sold under a land sale contract, notice shall be sent to a single address, of which the secretary has been notified in writing by such parties. If no address has been given to the secretary in writing, then mailing to the lot shall be sufficient.

12.2 Waiver, Precedent and Estoppel

No restriction, condition, obligation, or provision contained in these Bylaws or rules and regulations adopted pursuant hereto shall be deemed to have been abrogated or waived by the Association by reason of any failure to enforce the same, irrespective of the number of violations or breaches thereof which may occur and any failure to enforce the same shall not be deemed to constitute precedent or estoppel impairing the right of the Association as to any similar matter.

12.3 Severability; Number; Captions

The invalidity of any part of these Bylaws shall not impair or affect in any manner the validity, enforceability, or effect of the balance of these Bylaws. As used herein, the singular shall include the plural and the plural the singular. The masculine and neuter shall each include the masculine, feminine, and neuter, as the context requires. All captions used herein are intended solely for convenience of reference and shall in no way limit any of the provisions of these Bylaws.

12.4 Fiscal Year

The fiscal year of the Association shall be determined by the Board in its discretion.

12.5 Conflicts

In the case of any conflict between the Articles of Incorporation and these Bylaws, the Articles shall control; and in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control.

