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Gary W. Ott  
Recorder, Salt Lake County, UT  
COTTONWOOD TITLE  
BY: eCASH, DEPUTY - EF 55 P.

**AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS,  
AND RESTRICTIONS, AND RESERVATION OF EASEMENTS  
FOR  
ECHO RIDGE SUBDIVISION**

**LOCATED IN SALT LAKE COUNTY, UTAH**

**AFTER RECORDING PLEASE RETURN TO:**

**IVORY DEVELOPMENT, LLC  
Christopher P. Gamvroulas  
978 East Woodoak Lane  
Salt Lake City, Utah 84117  
(801) 747-7440**

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**AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, AND  
RESTRICTIONS, AND RESERVATION OF EASEMENTS  
FOR  
ECHO RIDGE SUBDIVISION**

This Amended and Restated Declaration of Covenants, Conditions, and Restrictions, and Reservation of Easements for Echo Ridge Subdivision (the "Declaration") is made and executed by Ivory Development, LLC, of 978 East Woodoak Lane, Salt Lake City, Utah 84117 (the "Successor Declarant").

**ARTICLE 1. RECITALS**

A. The First Restated Declaration of Protective Covenants for All Phases of Echo Ridge Subdivision was recorded in the office of the County Recorder of Salt Lake County, Utah on December 10, 2012 in Book 10086 at Pages 157-166 of the official records (the "Original Declaration").

B. The related Final Plats for Phases 1 and 2 of the Echo Ridge Subdivision have also been recorded in the office of the County Recorder of Salt Lake County, Utah.

C. In Section VIII, Subsection B of the Original Declaration Successor Declarant reserved for itself and its assigns the unilateral right to amend the Original Declaration.

D. The Successor Declarant is an assignee of the Declarant.

E. The Echo Ridge Subdivision is an area featuring unique and distinctive terrain;

F. By subjecting the Echo Ridge Subdivision to this Declaration, it is the desire, intent and purpose of Successor Declarant to create a development in which beauty shall be substantially preserved, which will enhance the desirability of living on or visiting real estate subject to the Declaration, and which will increase and preserve the utility, attractiveness, quality, and value of the lands and improvements therein.

G. The Successor Declarant has sold or intends to sell to various purchasers the fee title to the individual Lots together with an appurtenant membership interest in the Association, subject to the Final Plats and Declaration.

H. The Successor Declarant desires by filing this Declaration to re-submit the Echo Ridge Subdivision and all improvements now or hereafter constructed thereon to the provisions, covenants, conditions, restrictions, and easements set forth herein.

I. Since the completion of the Echo Ridge Subdivision may be in phases, the completed Subdivision will consist of the original phase and all subsequent phases.

## **COVENANTS, CONDITIONS AND RESTRICTIONS, AND RESERVATION OF EASEMENTS**

NOW, THEREFORE, for the reasons recited above, the Successor Declarant hereby covenants, agrees and declares that the Property shall be subject to the following covenants, conditions and restrictions.

### **ARTICLE 2. DEFINITIONS**

The following definitions shall apply to this Declaration:

1. The term Accessory Building shall mean and refer to any structure which (1) is not the preliminary structure, (2) contains at least 120 square feet, (3) requires a building permit, (4) is not a shed, shack or other out-building (for which a building permit is not required), and (5) qualifies as such under the totality of the circumstances in the sole opinion of the ARC.
2. The term Additional Charges shall mean and refer cumulatively to all collection and administrative costs, including but not limited to all attorneys fees, late charges, accruing interest, service fees, filing and recordation fees, and other expenditures incurred or charged by the Association.
3. The term Additional Land shall mean and refer to any and all additional real property annexed or to be annexed to the real property initially submitted to the Original Declaration.
4. The term Architectural Review Committee shall mean the person or persons appointed to review the designs, plans, specifications, Homes, architecture, fencing, landscaping, and other physical improvements within the Subdivision (the "ARC").
5. The term Assessment shall mean and refer to any amount imposed upon, assessed, or charged an Owner or Permittee.
6. The term Area of Common Responsibility shall mean and refer to the area and items for which the Association is responsible.
7. The term Area of Personal Responsibility shall mean and refer to the area and items for which the Owners are responsible.
8. The term Articles of Incorporation shall mean and refer to the Articles of Incorporation of the Association on file or to be filed with the Utah Department of Commerce.
9. The term Association shall mean and refer to the association of Owners at the Echo Ridge Subdivision taken or acting as a group in accordance with this Declaration.
10. The term Board of Directors shall mean and refer to the governing board of the Association.

11. The term Board shall mean and refer to the Board of Directors.
12. The term Builder shall mean an owner, Successor Declarant, or contractor who obtains a construction or occupancy permit for one or more Buildings, Lots or Homes.
13. The term Building shall mean and refer to any of the structures constructed in the Subdivision.
14. The term Bylaws shall mean and refer to the Bylaws of the Association, a copy of which is attached hereto, marked Exhibit "B", and incorporated herein by this reference.
15. The term Capital Improvement or Addition shall mean and refer to a permanent addition to or the betterment of real property that enhances its capital value and improves the expenditure of labor or money and is designed to make the property more useful or valuable as distinguished from ordinary repairs.
16. The term City shall mean and refer to the City of West Jordan in Salt Lake County, Utah.
17. Common Area and Facilities shall mean and refer to all real property in the Subdivision owned in common by the Lot Owners including but not limited to the following items:
  - a. The real property and interests in the Subdivision and the real property submitted hereby, including the entirety of the Phases 1 and all improvements constructed thereon, excluding the individual Lots.
  - b. All Common Area and Facilities designated as such in the Final Plat;
  - c. Any Common Area designated as such in the Final Plat for the exclusive use of a Lot or Lots;
  - d. All utility installations and all equipment connected with or in any way related to the furnishing of utilities to the Project and intended for the common use of all Lot Owners such as power, gas, water, and sewer;
  - e. The Project's outdoor grounds including the Entry or Entries, Entry Monument or Monuments, landscaping, open space, and green space;
  - f. Landscaped Easements;
  - g. Perimeter fencing;
  - h. All portions of the Echo Ridge Subdivision not specifically included within the

individual Lots or Homes; and

i. The Property owned by the Association or for the common benefit of its Members includes all other parts of the Project normally in common use, necessary for the Members use, or convenience. The Association is responsible for the existence, maintenance, safety, operation, or management of the Property described within this paragraph.

Anything to the contrary notwithstanding, utility installations such as power, gas, water, and sewer may be dedicated to the City and, if so, this definition shall not be construed to allow the Association to exclude the City from the ownership and control of the utility systems so dedicated.

18. The term Common Expense shall mean and refer to:
  - a. All sums lawfully assessed against the Owners;
  - b. Expenses of administration of the Association and the maintenance, repair, or replacement of the Common Area and Facilities;
  - c. Expenses allocated by the Association among all of the Owners;
  - d. Expenses agreed upon as common expenses by the Association; and
  - e. Expenses declared as common expenses by the Declaration.
19. The term Community shall mean and refer to the Echo Ridge Subdivision.
20. The term Community Standard shall mean and refer to the standard of conduct, maintenance, or other activity generally prevailing in the Echo Ridge Subdivision as determined by the Board of Directors from time to time.
21. The term Declaration shall mean and refer to this Amended and Restated Declaration of Covenants, Conditions, Restrictions, and Reservation of Easements for Echo Ridge Subdivision.
22. The term Dedicated Streets shall mean and refer to those streets, roads, and cul-de-sacs within the Echo Ridge Subdivision formally dedicated to the City or any other municipal or governmental body politic, entity, or agency.
23. The term Default Assessment shall mean and refer to an Assessment against an Owner or a Lot for failure to perform an obligation under the Project Documents or because the Architectural Review Committee has incurred an expense on behalf of the Owner under the Declaration.
24. The term Design Guidelines shall mean and refer to any design guidelines required by the City, Association or the Architectural Review Committee.

25. The term Developmental Rights shall mean and refer to the right granted hereunder to the Successor Declarant, its agents, representatives, employees, successors and assigns to develop and improve the Echo Ridge Subdivision.

26. The term Director shall mean and refer to a member of the Board of Directors.

27. The term Eligible Guarantor shall mean and refer to a governmental guarantor of a mortgage or trust deed who has requested notice in writing of certain matters from the Association in accordance with the Declaration.

28. The term Eligible Insurer shall mean and refer to an insurer of a mortgage or trust deed who has requested notice in writing of certain matters from the Association in accordance with this Declaration.

29. The term Eligible Mortgagee shall mean and refer to a mortgagee, beneficiary under a trust deed, or lender who has requested notice in writing of certain matters from the Association in accordance with this Declaration.

30. The term Eligible Votes shall mean and refer to those votes available to be cast on any issue before the Owners. A vote which is for any reason suspended is not an "eligible vote".

31. The term Entry shall mean and refer to the entry way or entry ways into Echo Ridge Subdivision.

32. The term Entry Monument shall mean and refer to the monument, planter boxes, landscaping features and other physical improvements identifying the Echo Ridge Subdivision, in whole or in part, located at or near any Entry or entrance to the Project.

33. The term Final Plat shall mean and refer to the recorded Final Plat for the Echo Ridge Subdivision on file in the Office of the County Recorder and where the context clearly requires the individual Final Plat for each Phase of the Subdivision.

34. The term Governing Documents shall mean and refer to the Project Documents.

35. The term Guest shall mean and refer to a guest, visitor, or invitee of an Owner or the occupant of a Unit.

36. The term Guest Parking shall mean and refer to those parking spaces reserved for the exclusive use of Guests.

37. The term Home shall mean and refer to a dwelling, residence or home constructed upon a Lot.

38. The term Home Plans shall mean and refer to the design guidelines, architectural

design, development, landscaping, and other guidelines, standards, controls, and procedures, including but not limited to application and plan review procedures, adopted pursuant hereto and applicable to the Project. All Homes constructed within the Project or on the Property shall be restricted to those home plans shown in that certain annual catalog used by Declarant entitled "Ivory Homes Catalog," a copy of which is attached to the Development Plan with the City and incorporated herein by this reference. It may be updated annually, subject to the prior review and approval of the City.

39. The term Improvement shall mean and refer to any physical change or addition to the Land to make it more valuable.

40. The term Individual Charge shall mean and refer to a charge levied against an Owner or Permittee for all expenses resulting from the act or omission of such Person, excepting the Owner's failure to pay any Assessment. Individual Charges shall include, by way of illustration but not limitation, any expense resulting from the act or omission of any Owner or Permittee including:

a. The cost to repair any damage to any portion of the Property on account of loss or damage caused by such Person; or

b. The cost to satisfy any expense to any other Owner or Owners or to the Association due to any intentional or negligent act or omission of such Person, or resulting from the breach by such Person of any provisions of the Project Documents; or

c. Any fines. While Individual Charges are not Assessments, they are secured by a lien in the same manner as Assessments as set forth below. The Association also shall have all other remedies, both legal and equitable, described in the Project Documents available against any Owner for nonpayment.

41. The term Land shall mean and refer to the Property.

42. The term Landscaping shall mean and refer to the grass, trees, shrubs, bushes, flowers, plants, and like improvements located within the Property as well as the appurtenant sprinkling and irrigation systems.

43. The term Lender shall mean and refer to a Mortgagee.

44. The term Lot shall mean and refer to a lot as shown on the Final Plat. Each Lot shall be assigned a separate "parcel" or tax identification number by the appropriate governmental agency.

45. The term Lot Number shall mean and refer to the number, letter, or combination thereof designating a particular Lot as identified on the Final Plat.

46. The term Majority shall mean and refer to those eligible votes of Owners or other groups as the context may indicate totaling more than fifty percent (50.01%) of the total eligible number.

47. The term Manager shall mean and refer to the Person appointed or hired by the Association to manage and operate the Echo Ridge Subdivision.

48. The term Map shall mean and refer to the Final Plat.

49. The term Member shall mean and refer to an Owner unless the context clearly requires otherwise.

50. The term Membership shall mean and refer to membership in the Association.

51. The term Mortgage shall mean and refer to any mortgage, deed of trust, or other security instrument (including the seller's rights under a contract for deed) by which a Lot or any part thereof or interest therein is encumbered. A First Mortgage is a Mortgage having priority as to all other Mortgages encumbering a Lot, or any part thereof or interest therein.

52. The term Mortgagee shall mean and refer to any person or entity named as the mortgagee, beneficiary, or holder of the seller's interest (so long as a copy of the contract for deed is given to the Association) under any Mortgage by which the interest of any Owner is encumbered, or any successor to the interest of such person under such Mortgage. A First Mortgagee shall mean and refer to any person or entity holding a First Mortgage including any insurer or guarantor of a First Mortgage. Any and all Mortgagee protections contained in Declaration shall also protect the Successor Declarant as the holder of a First Mortgage of a Lot or any interest therein.

53. The term Office of the County Recorder or County Recorder shall mean and refer to the Office of the County Recorder of Salt Lake County, Utah.

54. The term Open Space shall mean and refer to the definition of "open space" adopted by the City by applicable ordinance. In the absence of such a definition, the term "open space" shall mean land on which improvements and activities shall be permitted and prohibited as designated in subsections (a) and (b) below, respectively:

a. The following improvements and activities shall be permitted: unimproved land, landscaping, green space and Open Space; and

b. The following improvements and activities shall be prohibited: temporary or permanent buildings or building-type structures of any kind, impervious surfaces other than those used only for maintenance of the Common Area and Facilities, noxious or offensive activities of any kind, any activity which is or which may become a nuisance, and dumping or storage of refuse, garbage or other waste.

55. The term Owner shall mean and refer to a Person who is the owner of a fee or an undivided fee interest in a Lot, excluding a Mortgagee or a beneficiary or trustee under a deed of trust unless and until such party has acquired title pursuant to foreclosure or any arrangement or proceeding



in lieu thereof.

56. The term Period of Successor Declarant's Control means the time during which the Declarant has the sole legal right to appoint the Directors.

57. The term Permittee shall mean a Guest, tenant, renter, lessee, and non-occupant residents.

58. The term Person shall mean and refer to a natural person, corporation, partnership, trust, limited liability company, or other legal entity.

59. The term Plans and Specifications shall mean and refer to any and all documents designed to guide or control the construction of an Improvement, or alterations, modifications, changes, additions, and the like thereto, including without limitation, all documents indicating the size, shape, configuration and/or materials to be incorporated; all site plans, excavation and grading plans, elevation drawings, floor plans, techniques, samples of exterior colors, plans for utility services, and all other documentation or information relevant to the improvement or proposal in question.

60. The term Plat shall mean and refer to the Final Plat.

61. The term Plat Map shall mean and refer to the Final Plat.

62. The term Private Street, Road, Cul-de-sac, Way or Drive shall mean and refer to those streets, roads, cul-de-sacs, ways, drives, or turnabouts within the Project not dedicated to the City or any county, state, or other governmental body politic, entity or agency.

63. The term Project shall mean and refer to Echo Ridge Subdivision.

64. The term Project Documents shall mean and refer to the Declaration, Bylaws, Articles of Incorporation, and Rules and Regulations.

65. The term Property shall mean and refer to all of the land or real estate, improvements, and appurtenances comprising the Echo Ridge Subdivision submitted to this Declaration.

66. The term Recreational, Oversized, or Commercial Vehicle shall mean and refer to any recreational, commercial, or oversized vehicle, motor Home, commercial vehicle, tractor, golf cart, mobile Home or trailer (either with or without wheels), camper, camper trailer, boat or other watercraft, boat trailer, or any other recreational or commercial transportation device of any kind.

67. The term Repair shall mean and refer to merely correcting the damage done sometimes by accident or fire or other cause, but more often due to the ravages of time and the deterioration resulting from ordinary wear and tear, by substituting for the damage, decayed, or worn-out parts, new materials, usually similar to that replaced, and so restoring the structure to its original sound condition.

68. The term Residence Number shall mean and refer to the number, letter, or combination of name, numbers, and letters that identifies a Lot.

69. The term Resident shall mean and refer to any person living or staying at Echo Ridge Subdivision. This includes but is not limited to any and all natural persons residing in a Lot.

70. The term Single Family shall mean and refer to one of the following: (a) a single person, (b) a group of natural persons related to each other by blood or legally related to each other by marriage or adoption, or (c) a group of not more than three unrelated persons who maintain a common household to be distinguished from a group occupying a boarding house, club, fraternity, or hotel. An additional person or persons may also be allowed under appropriate circumstances, for example, as a caretaker or as domestic help, with the prior written consent of the Board of Directors.

71. The term Single Family Residence shall mean and refer to (a) both the architectural style of a Lot and (b) the nature of the residential use permitted therein.

72. The term Subdivision shall mean and refer to the Echo Ridge Subdivision.

73. The term Successor Declarant shall mean and include Ivory Development, LLC and any person or persons who might acquire title from it to all or some of the unsold Lots through purchase, assignment, or other transfer including foreclosure or deed in lieu of foreclosure; or, in the situation where any person purchases all or some of the remaining Lots in a sale in the nature of a bulk sale. The person acquiring any of such property from the Successor Declarant shall be considered a Successor Declarant with respect to that portion of the property so acquired and shall have the right to develop the property and/or sell such property in accordance with the terms and provisions of this Declaration; provided, however, a notice of succession shall be recorded in the Office of the County Recorder signed by both the current Successor Declarant and by its successor in interest as the new Successor Declarant.

74. The term Total Votes shall mean and refer to the total number of votes appertaining to all Lots in the Echo Ridge Subdivision.

75. The term Tract shall mean and refer to all of the land or real estate submitted to this Declaration.

76. The term Unit or Living Unit shall mean and refer to a Home.

77. The term Use Restrictions shall mean and refer to the use expressly set forth herein, which are subject to change.

78. The term Visible From a Neighboring Property shall mean with respect to any object that such object is or would be visible to an individual six (6') tall standing at ground level on any portion of the neighboring property.

79. The term Water-Wise Techniques shall mean and refer to the water-wise guidelines marked Exhibit "C," attached hereto and incorporated herein by this reference.

### **ARTICLE 3. LEGAL DESCRIPTION**

The real property described in Exhibits "A" (the "Property") is hereby resubmitted to the provisions of this Declaration and said land shall be held, transferred, sold, conveyed, and occupied subject to the provisions hereof as it may be supplemented or amended from time to time.

### **ARTICLE 4. ANNEXATION**

Successor Declarant hereby declares that the Property shall be re-annexed to and again become subject to the Declaration, which, upon recordation of this Declaration, shall constitute and effectuate the expansion of the Project making the real property described in Exhibit A-4 subject to this Declaration and the functions, powers, rights, duties, and jurisdiction of the Association.

### **ARTICLE 5. SUBMISSION**

The Land described with particularity on Exhibits "A" attached hereto and incorporated herein by this reference is hereby re-submitted to the Declaration and the Utah Community Association Act, Utah Code Ann., §§57-8a-1 et seq. (the "Act").

The Land is hereby again made subject to, and shall be governed by the Act, and the covenants, conditions and restrictions set forth herein. The Property is also subject to the right of the City to access the roads within the Project for emergency vehicles, service vehicles, and to all of the utility installations up to the residential meters.

The Land is SUBJECT TO the described easements and rights of way. Easements and rights-of-way in favor of the City include any dedicated roadways and public utility easements and are depicted on the Final Plat.

TOGETHER WITH all easements, rights-of-way, and other appurtenances and rights incident to, appurtenant to, or accompanying the above-described parcel of real property, including by way of illustration and not limitation all easements and rights-of-way in and to the detention basin, entry way, monument, and park.

ALL OF THE FOREGOING IS SUBJECT TO: All liens for current and future taxes, assessments, and charges imposed or levied by governmental or quasi-governmental authorities; all Patent reservation and exclusions; any mineral reservations of record and rights incident thereto; all instruments of record which affect the above-described Tract or any portion thereof, including, without limitation, any mortgage or deed of trust; all visible and necessary easements and rights-of-way; all easements and rights-of-way of record; any easements, rights of-way, encroachments, or discrepancies shown on or revealed by the Final Plat or otherwise existing; an

easement for each and every common area improvement, equipment, pipes, lines, cables, wires, utility systems, or similar facilities which traverse or partially occupy the above-described Tract; and all easements necessary for servicing, repairing, ingress to, egress from, maintenance of, and replacement of all such common area improvements, equipment, pipes, lines, cables, wires, utility systems, and similar facilities.

## ARTICLE 6. GENERAL PROVISIONS

1. Residential Nature of the Project. This is a residential subdivision.
2. Single Family Residences. Only single family residences are allowed in the Subdivision.
3. Area of Application. This Declaration shall apply to all of the Property.
4. Right to Expand Application. The Successor Declarant shall have the unilateral right to expand the application of this Declaration to other property by written amendment to this Declaration duly recorded, and without additional Owner approval required.
5. Grant of Common Area and Facilities. The Successor Declarant hereby grants to the Association ownership of the Common Area and Facilities.
6. Conveyance. Every conveyance or contract for the sale of a Lot and every other instrument affecting title to a Lot may describe that Lot by the number shown on the Map in substantially the following fashion:

LOT NO. \_\_\_\_\_, as shown in the Declaration and on the Final Plat for "ECHO RIDGE SUBDIVISION," PHASE \_\_\_\_\_, appearing in the records of the County Recorder of Salt Lake County, Utah, together with an undivided interest in and to the Common Area and Facilities, as the same are established and identified in the Declaration and Final Plat referred to above.

SUBJECT TO: The Declaration and Final Plat; all liens for current and future Assessments and charges imposed or levied pursuant to the Declaration and Declaration of Covenants, Conditions, Restrictions, and Reservation of Easements for Echo Ridge Subdivision Phase \_\_\_\_; mineral reservations of record and rights incident thereto; all instruments of record which affect the above-described tract or any portion thereof, including, without limitation, any mortgage or deed of trust; all visible easements and rights-of-way; and all easements and rights-of-way of record; all easements, rights-of-way, encroachments, or discrepancies shown on or revealed by the Final Plat or otherwise existing; an easement for every pipe, line, cable, wire, utility line, or similar facility which traverses or partially occupies the above-described tract; and all easements necessary for ingress to, egress from, maintenance of, and

replacement of all such pipes, lines, cables, wires, utility lines, and similar facilities.

Such description shall be construed to describe the Lot, together with the appurtenant membership in the Association, and to incorporate all the rights and limitations incident to such ownership contained in the Project Documents.

7. Title to each Lot is hereby made subject to the terms and conditions hereof which bind the Successor Declarant and all subsequent owners, whether or not it be so expressed in the deed by which any Owner acquired a Lot.

#### **ARTICLE 7. USE RESTRICTIONS**

1. Residential Purposes. Each Lot is intended and restricted to be used for residential use. No Lot shall be used except for residential purposes for a Single Family. Each Owner shall have and enjoy the privileges of fee simple ownership of his or her Lot. There shall be no requirements concerning who may own a Lot, it being intended that it may and shall be owned as any other property rights by any Person. Unless otherwise expressly and specifically noted, the Project shall be used only for residential purposes and the Common Area and Facilities shall only be used in a manner consistent with the residential nature of the Project.

2. Obstruction of Common Area and Facilities. There shall be no obstruction of Common Area by Owners or Permittees without the prior written consent of the Board of Directors.

3. Rules and Regulations. The Board of Directors may, by Rules and Regulations, prohibit or limit the use of the Common Area as may be reasonably necessary for protecting the interests of all Owners or protecting the Lots or the Common Area. No Owner or Permittee shall violate the Rules and Regulations as adopted from time to time by the Board of Directors.

4. Storage of Items in Common Area. Nothing shall be kept or stored on any part of the Common Area without the prior written consent of the Board of Directors, except as specifically provided herein. Nothing shall be altered on, constructed in, or removed from the Common Area except upon the prior written consent of the Board of Directors.

5. Insurance. Nothing shall be done or kept in any Lot or in the Common Area which would result in the cancellation of the insurance on the Property or increase the rate of the insurance on the Property, but for such activity that the Association would pay without the prior written consent of the Board of Directors.

6. Laws. Nothing shall be done or kept in any Lot or in the Common Area or any part thereof which would be a violation of any statute, rule, ordinance, regulation, permit, or other validly imposed requirement of any governmental body.

7. Damages. No damage to or waste of the Common Area and Facilities shall be

committed by any Owner or any invitee of any Owner, and each Owner shall indemnify and hold the Board of Directors and the other Owners harmless against all loss resulting from any such damage or waste caused by that Owner or an invitee; provided, however, that any invitee of the Successor Declarant shall not under any circumstances be deemed to be an invitee of any other Owner.

8. Maintenance. Each Owner shall keep the exterior of his or her Lot and the adjacent Common Area in a clean, sanitary, and attractive condition, and good state of repair.

9. Alterations. No alterations, plumbing, electrical, or similar work within the Common Area and Facilities shall be done by any Owner or Resident without the prior written consent of the Board of Directors, except emergency repair. No alterations, plumbing, electrical, or similar work within a Lot that may affect the structural integrity of the Building or another Lot shall be done by any Owner or Resident without the prior written consent of the Board of Directors, except emergency repair.

10. Sales. Notwithstanding anything herein to the contrary, until the Successor Declarant has completed and sold all of the Lots, neither the Owners who have purchased Lots nor the Board of Directors shall interfere with the completion of the contemplated improvements and sale of the Lots. The Successor Declarant may make such use of the unsold Lots and the Common Area as may facilitate such completion and sale, including but not limited to, the maintenance of a sales office, the showing of the Lots, and the display of signs.

11. Equal Treatment. Similarly situated Owners and residents shall be treated similarly.

12. Displays. The rights of Owners and residents may display religious and holiday signs, symbols, and decorations on their Lots of the kinds normally displayed in residences located in single family residential neighborhoods and shall not be abridged, except that the Association may adopt time, place, and manner restrictions regulating displays which are visible from outside the Lot.

13. Noise Makers. Signs, symbols, and decorations generally, such as wind chimes, wreaths, dream catchers, pinwheels and so forth, may be controlled by rule and may not be installed or placed so as to be visible to or heard by other residents without the express prior written consent of the Board of Directors.

14. Occupancy. No rule shall interfere with the freedom of occupants of Lots to determine the composition of their households, except that this Declaration limits residency in a Lot to a Single Family and the Association shall have the power to limit the total number of occupants permitted in each Lot on the basis of the size and facilities of the Lot and its fair share use of the Common Area and Facilities, health care, sanitation and other related concerns.

15. Activities. No rule shall interfere with the activities carried on within the confines of Lots, except that the Association may prohibit activities not normally associated with property restricted to residential use, and it may restrict or prohibit any activities that create monetary costs for the Association or other Owners, that create a danger to the health or safety of occupants of other Lots,

that generate excessive noise or traffic, that create unsightly conditions visible from outside the Lot, or that create unreasonable sounds of annoyance.

16. Commercial Activities and Home Occupation Guidelines. No resident may operate a commercial trade or business in or from his or her Lot with employees of any kind. No commercial trade or business may store any inventory over 250 cubic feet, and it must be contained within the Lot. No commercial trade or business may be conducted in or from a Lot unless (a) the business activity conforms to all home occupation and zoning requirements governing the Project; (b) the operator has a city issued business license; (c) the business activity satisfies the Home Occupation Guidelines adopted by the Board of Directors, as they may be modified from time to time; and (d) the resident has obtained the prior written consent of the Board of Directors. Notwithstanding the foregoing, the leasing of a Lot shall not be considered a trade or business within the meaning of this subsection.

17. Bikes. Bikes shall be subject to and governed by the rules and regulations adopted by the Board of Directors.

18. Trash. No Lot shall be used as a dumping ground. All trash, garbage, debris, rubbish, or other waste shall be kept in a sealed, sanitary bag or container, and stored out of sight except for a twenty-four (24) hour period on pick-up days.

19. Satellite Dishes. Satellite dishes, aerials, antenna, or systems may only be installed in accordance with FCC regulations taking into consideration the written guidelines established for or by the Board of Directors. The Board of Directors may bar, in its sole discretion, satellite dishes, aerials, antenna, or systems, including HAM radio antenna, not expressly authorized by FCC regulations

20. Pets. No pets, animals, livestock, or poultry of any kind may be commercially bred at the Property. Up to two (2) domestic pets as that term is defined by City Ordinance per Lot are allowed. All pets must be properly licensed and registered. Pets may not create a nuisance. The following acts shall be considered a nuisance: (a) causing damage to the property of anyone other than the pet owner; (b) causing unreasonable fouling of the air by odors; (c) causing unsanitary conditions; (d) running loose throughout the Property and not in a cage or on a leash and under the control of a responsible person; (e) barking, howling, whining, or making other disturbing noises in an excessive, continuous, or untimely fashion; (f) molesting or harassing passersby by lunging at them or chasing passing vehicles; (g) attacking or threatening to attack people or other domestic animals; (h) otherwise acting so as to bother, annoy, or disturb the sensibilities of a reasonable person or interfering with the right of residents to the peaceful and quiet enjoyment of their property; or (i) the mere number of pets maintained creates an offensive or dangerous condition to the health, welfare, or safety of other residents. The Board of Directors may require pet registration and may charge a registration fee and/or pet security deposit.

21. Signage. No signs, billboards, or advertising structures or devices of any kind may be built, installed or displayed on the Property or in any Lot, except one 2' x 2' "For Sale" sign may be put in one window of a Lot. No "For Rent" signs or political signs are allowed. Anything herein to the contrary notwithstanding, this signage restriction does not apply to and is not binding upon the

Successor Declarant, who is expressly authorized to employ and use whatever signs or signage it deems appropriate to market its Lots.

22. Zoning Ordinances. All land use and buildings shall be in compliance with all zoning and land use ordinances as well as all regulations of the municipalities and agencies governing the Property land use and buildings.

23. Patios, Decks and Balconies. Personal property placed on a patio, deck, or balcony shall be managed and controlled by rule adopted by the Board of Directors, as it may be modified from time to time and may, although the Board of Directors is not obligated to do so, allow one table, one set of chairs, and one BBQ grill, if covered and not visible to the other residents. Clothes lines, the hanging or drying of clothes, swimsuits, and towels, dream catchers, wind chimes, pinwheels, the storing of bicycles, tricycles, equipment, machinery, furniture, appliances, furnishings, or other items which may be considered inappropriate or unsightly by the Board of Directors in its sole discretion shall not be allowed.

24. Window Air Conditioners and Coolers. No air conditioning systems or units are allowed except those initially installed by the Successor Declarant and replacements authorized in writing by the Board of Directors. Window air conditioning Lots, swamp coolers, or other similar refrigeration devices are not permitted.

25. Fencing. Fencing, except that installed initially by the Successor Declarant and its replacement authorized by the Board of Directors, is not allowed. All replacement fencing must be approved in writing by the Board of Directors in order to maintain quality of construction and the integrity of the original design scheme.

26. Motor Vehicles. The driving, parking, standing, and storing of motor vehicles and trailers in, on, or about the Project shall be subject to the following:

a. The parking rules and regulations adopted by the Board of Directors from time to time;

b. The parking areas are not designed for Recreational, Commercial, or Oversized motor vehicles and the Board of Directors has the right to make rules and regulations restricting or prohibiting their use. Unless otherwise determined by the Board of Directors, all Recreational, Commercial, and Oversized Vehicles shall be parked outside the Project, except for purposes of loading and unloading.

c. No motor vehicle or trailer may be parked or stationed in such a manner so as to create a potentially dangerous situation.

d. No street parking that will interfere with snow removal is allowed.

e. No motor vehicle or trailer may be parked or stationed in such a manner so as to



create an obstacle or hazard or so as to block, obstruct, or impair access to a garage, walkway, driveway, Building, or Lot.

- f. No motor vehicle or trailer may be parked or stationed in an unauthorized area.
- g. Residents may not park their motor vehicles in red zones, fire lanes, or in any manner that may obstruct access by emergency vehicles.
- h. Parking of motor vehicles or trailers is not allowed in the driveways with a length of less than eighteen (18') feet.
- i. The parking of a damaged motor vehicle or trailer (i.e., the cost of repair is \$1,000 or more) in a driveway or so as to be visible from the street or another Lot is prohibited.
- j. Only Guests may park in parking spaces marked, designated, or otherwise identified as "Guest Parking".
- k. Owners and other non-Guests may not park in parking spaces marked, designated, or otherwise identified as "Guest Parking".
- l. No Owners or Residents shall repair or restore any vehicle of any kind in, on, or about any Lot or the Common Area, except for emergency repairs, and then only for a seventy-two (72) hour period to enable movement thereof to a proper repair facility.
- m. No garage may be altered in such a manner that the number of motor vehicles which may reasonably be parked therein after the alteration is less than the number of motor vehicles that could have been reasonable parked in the garage as originally designed and constructed.
- n. Parking amenities shall be used solely and exclusively for the parking and storage of motor vehicles used for personal transportation. For use herein the term "for personal transportation" shall mean a vehicle driven at least every 72 hours for regular transportation and for a purpose other than merely satisfying this condition.
- o. Motor vehicles which are damaged, inoperable, unlicensed or unregistered may not be parked or stored so as to be Visible From a Neighboring Property are prohibited, as well as vehicles which leak oil or other fluids onto the Common Area.
- p. Anything to the contrary notwithstanding, access to the Property by emergency vehicles must be maintained at all times.
- q. Without further or additional notice, the Association may immobilize, tow and/or impound motor vehicles and trailers parked, stationed, or stored in violation of the Project Documents, and at the owner's sole risk and expense.

27. Nuisance. No noxious or offensive activity shall be carried on, in, or about the Property, nor shall anything be done or permitted thereon which may be or may become an annoyance, disturbance, bother, or nuisance to the neighborhood, or which might interfere with the right of other residents to the quiet and peaceful enjoyment of their property.

28. Neighborhood Activities. This Property is located by and is subject to the normal everyday sounds, odors, and all other aspects associated with the nearby manufacturing area and an outdoor entertainment venue.

29. Leasing. No Owner shall be permitted to lease his or her Lot for short term use, which includes, transient, hotel, vacation, seasonal or corporate use, or any rental with an initial term of less than six (6) months. Daily or weekly rentals are prohibited. No Owner may lease individual rooms to separate persons or less than his or her entire Lot, including by way of illustration but not limitation, to domestic help or a caretaker, without the written consent of the Board of Directors. The Association may adopt rental rules and regulations.

30. Water Wise Techniques. Each Owner is strongly encouraged, although not required to, implement the Water-Wise Techniques.

31. Pollutants and Hazardous Materials. The storage of any substance, toxin, hazardous waste, pollutant or other dangerous materials in, on or about the Subdivision is prohibited.

32. Plants, Animals or Devices. The maintenance of any plants, animals, devices or things of any sort which is illegal, noxious or dangerous are prohibited.

33. Storage. The storage of personal property which is Visible From a Neighboring Property and is unsightly in the opinion of the Board of Directors is prohibited.

34. Oil and Mining Operations. No oil drilling, oil development operations, oil refining, quarrying or mining operations, oil wells, tanks, tunnels, mineral excavations or shafts, derricks, or other devices for the boring for oil or natural gas of any kind on the Property is permitted.

35. View Impairment. Neither the Successor Declarant nor the ARC guarantees or represents that any view over and across any property, including any Lot or Building will be preserved without impairment. Neither the Successor Declarant nor the ARC shall have the obligation to prune or thin trees or other landscaping except as set forth herein. Any express or implied easements for view purposes or for the passage of light and air are hereby expressly disclaimed.

## **ARTICLE 8. ARCHITECTURAL REVIEW COMMITTEE**

a. Designs, Plans and Specifications. Architectural designs, plans and specifications showing the nature, kind, shape, color, size, materials, and location of all proposed structures and improvements shall be submitted to the ARC for review and approval. Information concerning irrigation systems, drainage, lighting, landscaping and other features of proposed construction should

be submitted if applicable. Designs submitted for approval shall be limited to those prepared by architects or by qualified residential designers of outstanding ability whose previous work may be reviewed as a part of the approval process.

1) Review Considerations Generally. In reviewing each submission, the ARC may consider the proposed design, harmony of external design with existing structures and the common scheme, the location in relation to surrounding structures, topography, finish grade and elevation, among other things.

2) Aesthetics. Decisions of the ARC may be based on purely aesthetic considerations. Each Owner acknowledges that opinions on aesthetic matters are subjective and may vary as ARC members change over time.

3) Minimum Dwelling Requirements. No Dwelling shall be constructed or altered unless it meets the following minimum requirements:

- a) Only single family residential Dwellings are allowed.
- b) The height of any Dwelling shall not exceed two stories above ground.
- c) No slab on grade Dwellings are permitted.
- d) Without the prior written consent of the ARC, a basement is required for each Dwelling.
- e) Without the prior written consent of the ARC, each Dwelling shall have a private garage for not less than two motor vehicles.
- f) The Dwelling exteriors, in their entirety, must consist of either maintenance free stucco and masonry, unless another construction material is approved by the ARC in writing. No aluminum or vinyl is permitted.
- g) Any detached accessory building must conform in design and materials with the primary residential Dwelling.
- h) Any and all plans and specifications for an Accessory Building must be submitted, reviewed and approved in writing in advance.
- i) Any detached accessory building must conform in design and materials with the primary residential Dwelling.
- j) No fence or similar structure shall be placed in any front yard. No fence or similar structure shall be placed in any side or rear yard in excess of six (6) feet. Vinyl fencing is allowed without additional approval required. Wood, masonry and wrought iron fencing may be allowed with the express prior written consent of the ARC, although approval may be denied. Chain

link fencing is strictly prohibited. If there is a dispute as to what constitutes the front, side or rear yards, or whether a variance has been granted, the decision of the ARC shall be final, binding and conclusive.

k) Conditional uses may be allowed for a swimming pool, gazebo, cabana, equipment building, outdoor recreational activities, such as an athletic court, tennis court, basketball court, soccer pitch, batting cage, and so forth.

4) Preliminary Architectural Drawings, Plans and Specifications. The ARC may require, as a minimum, the following additional items:

a) Plot plan to scale of entire site with buildings located and elevation of floors shown above or below a designated point on the street.

b) Floor plans of each floor level to scale.

c) Elevations to scale of all sides of the Dwelling.

d) One major section through Dwelling.

e) A perspective (optional).

f) Specifications of all outside materials to be used on the exterior of the Dwelling.

5) Final Plans and Specifications and Working Drawings. The ARC may also require, as a minimum, the following:

a) Plot plans to scale showing the entire site, building, garages, walks, drives, fence, carriage lights, retaining walls, with elevations of the existing and finished grade and contours including those at the outside corners of the buildings and at adjacent property lines and street fronts, and elevations of floors from a designated point on the street.

b) Detailed floor plans.

c) Detailed elevations, indicating all materials and showing existing and finished grades.

d) Detailed sections, cross and longitudinal.

e) Details of cornices, porches, windows, doors, garages, garden walls, steps, patios, fences, carriage lights, etc. Specifications shall give complete description of materials to be used with supplements, addenda or riders noting the colors of all materials to be used on the exterior of the Dwelling.

6) Landscaping. All Lot landscaping, grading, and drainage is subject to the following covenants, conditions, restrictions and easements, and shall be completed strictly in accordance with the Landscaping Guidelines adopted by the Successor Declarant or the ARC and so as to comply with and not impair all applicable ordinances and flood control requirements.

a) All Lot landscaping must be completed within six (6) months of closing.

b) Landscaping shall include by way of illustration but not limitation the planting of a lawn and/or other appropriate ground cover, planting beds and flower beds, appropriate bushes and shrubs, and the planting of trees in accordance with the Street Tree Planting Plan, a copy of which is attached hereto, marked Exhibit "D" and incorporated herein by this reference.

c) The Successor Declarant will provide the City with a bond for landscaping whenever possible.

d) In the event that such a bond is provided, it shall be refunded, upon the buyer's completion of the City's landscaping requirements, inspection and approval, to the Owner.

e) By accepting a deed or other document of conveyance to a Lot, the Owner hereby agrees, acknowledges and consents that if the Successor Declarant is required by the City to install front yard landscaping prior to receiving a final inspection on the Lot, to the basic front yard landscaping so provided and further agrees that the landscaping installed by Successor Declarant is in lieu of, abrogates and cancels any 2,000 sq. ft. of sod promised on any promotional materials, including by way of illustration but not limitation the Purchase Price Addendum and the Ivory Homes Catalogue of Homes.

f) The Owner is responsible for the initial planting of trees.

g) Trees, lawns, shrubs, or other plantings placed on a Lot shall be properly nurtured, maintained and replaced by the Owner.

h) Any weeds or diseased or dead lawn, trees, ground cover, bushes or shrubs shall be removed and replaced.

i) All replacement trees must also satisfy the requirements of the Street Tree Planting Plan.

j) The landscaping of a Lot may not adversely affect the value or use of any other property or detract from the original design scheme and appearance of the subdivision.

k) Residents are encouraged to be Water Wise but Xeriscape landscaping is not allowed.

l) No concrete, cement or masonry products, pavers, brick, stone, cobblestone, tile, terrazzo, slabs, slate, rocks, pebbles, gravel, permeable pavements and so forth or other artificial or impermeable surfaces (collectively "controlled surfaces") may be installed or

constructed as landscaping in the front, side or rear yards of a Lot without the express prior written consent of the ARC.

m) Front, side or rear yards constructed primarily or substantially of controlled surfaces are prohibited.

n) If Successor Declarant is required to install front yard landscaping prior to receiving a final inspection from the City, then the Owner, by accepting a deed or other document of conveyance to a Lot, acknowledges, understands and agrees that only a basic front yard landscaping will be provided by Successor Declarant and that this service will be provided in lieu of the 2,000 sq. ft. of sod promised on any promotional materials, including but not limited to the Purchase Price Addendum and/or the Ivory Homes Catalogue of Homes.

o) Should any Owner fail to comply with the provisions of this paragraph, the Successor Declarant or the ARC shall have the right to seek an order from a court of proper jurisdiction requiring specific performance to comply with the provisions hereof or to recover damages, or both, and shall also have the authority but not the obligation to complete the landscaping or restore the property to its original condition without being guilty of a trespass, and require the Lot Owner to pay the cost of labor and materials.

p) The costs and expenses incurred, including a reasonable attorneys fee, whether or not a lawsuit is filed, shall be considered the personal obligation of the Lot Owner and shall constitute a lien on the interest of the Owner in such property, enforceable at law or equity, until payment is made.

7) Easements. Easements for utilities, the Entry Monument, drainage systems and facilities, and irrigation are reserved hereby and as shown on the recorded Plat. If any portion of the Entry or Entry Monument encroaches or comes to encroach upon a Lot, in whole or in part, as a result of construction, reconstruction, repair, shifting, settling, or movement, an easement for such encroachment is created hereby and shall exist so long as such encroachment exists. An Owner may not do any landscaping, grading or work, or install any structure, building, improvement, planting, or other object, natural or artificial, or materials which may damage or interfere with the installation and maintenance of utilities, Entry Monument, or which may change the direction of flow of drainage channels in, on or about the easements and rights of way, or which may obstruct or retard the flow of water through the drainage channels in the easements and rights of way. If a drainage channel is altered by an Owner, the Successor Declarant and/or the Association expressly reserve the right to enter onto the property to restore the area at the cost of the Owner, and without being guilty of a trespass. In addition, the easement and right of way area of or on each Lot, including by way of illustration but not limitation, the Entry Monument, in whole or in part, utilities, drainage systems and facilities, and irrigation, and all improvements within said area shall be maintained continuously by the Owner of the property, at his sole expense, excepting those improvements for which a public authority or utility company is expressly responsible.

8) Slope and Drainage Control. No structure, plant, improvement or other material

may be placed or permitted to remain, or other activities undertaken which may damage or interfere with established Lot ratios, create erosion or sliding problems, or which may change the direction or flow of drainage channels, or obstruct or retard the flow of water through the channels.

a) The slope control area of each Lot and all improvements therein shall be maintained continuously by the Owner of the Lot, excepting those improvements for which a public authority or utility company is expressly responsible.

b) It shall be the responsibility of the Owner to see that his Lot strictly conforms with the grading and drainage plan established by the Successor Declarant, Salt Lake County and the City.

9) Accessory Buildings. Since Accessory Buildings are considered “conditional uses,” each application to construct or install an Accessory Building will be evaluated separately by the ARC, subject to the following guidelines:

a) Any detached Accessory Building must conform in design and construction materials with the primary residential Dwelling Unit;

b) The maximum height of an Accessory Building shall be 12 feet, (although the ARC may grant an exception if, in its sole opinion, such is in the best interest of the Project);

c) Tin sheds are not allowed; and

d) If there is a dispute of any kind whatsoever, such as whether a structure is an Accessory Building, the decision of the Successor Declarant or upon the termination of the Period of Successor Declarant’s Control the Board of Directors shall be final, conclusive and binding.

10) Exterior Changes. No exterior changes whatsoever shall be commenced, erected, maintained, made, or done without the prior express written approval of the Board of Directors or any Committee established by the Board of Directors for that purpose. By way of illustration, but not of limitation, the following are considered exterior changes: painting, landscaping, excavation, patio covers, screens, doors, evaporative coolers, fireplaces, skylights, storage buildings, solar collectors, geothermal products, wind turbines or other alternate energy resources, shade screens, awnings, window coating or tinting, decorative alterations, and other work that in any way alters the exterior appearance of the Property. The Board of Directors, or any Committee established by the Board of Directors for that purpose, may designate the design, style, model and manufacturer of any exterior improvement or alteration that is acceptable to the Board of Directors. Such designations shall be for the purpose of achieving uniformity of appearance and preservation and enhancement of property values.

11) Approval. In the event that the ARC fails to disapprove any application within thirty (30) days after submission of all information and materials reasonably requested, the application

shall be considered approved, subject to the minimum requirements as set forth herein.

12) No Waiver of Future Approvals. The approval of the ARC of 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 such 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 matters whatever subsequently or additionally submitted for approval or consent.

13) Variance. The ARC may authorize variances from compliance with any of the architectural guidelines when circumstances such as topography, natural obstructions, hardship, aesthetic, or environmental considerations require, but only in accordance with its duly adopted rules and regulations, and prior written consent of the City Board of Adjustment. Such variances may only be granted, however, when unique circumstances dictate and no variance shall (a) be effective unless in writing, (b) be contrary to the restrictions set forth in the body of this Declaration, or (c) estop the ARC from denying a variance in other circumstances. For purposes of this Section, the inability to obtain approval of any governmental agency, the issuance of any permit or the terms of financing shall not be considered a hardship warranting a variance.

14) Limitation of Liability. Neither the Successor Declarant nor the ARC, or any of their employees, agents, representatives or consultants shall be responsible in any way for any defects in any plans or specifications submitted, revised or approved in accordance with the provisions of this Declaration, nor for any structural or other defects in any work done according to such plans and specifications. By accepting a deed or other document of conveyance to a Lot, each Owner agrees to and shall defend, indemnify, save and hold the Successor Declarant and the ARC, and their employees, agents, representatives or consultants, harmless from any and all loss, damage or liability they may suffer, including defense costs and attorney fees, as a result of any claims, demands, actions, costs, expenses, awards or judgments arising out of their review or approval of architectural designs, plans and specifications.

15) Enforcement of Architectural Guidelines. Any construction, alteration, or other work done in violation of this Declaration shall be considered to be nonconforming. Upon written request from the ARC an Owner shall at his own cost and expense remove such non-conforming construction, alteration, or other work and shall restore the land to substantially the same condition as existed prior to the non-conforming construction, alteration, or other work. Should an Owner fail to remove and restore as required hereunder, the ARC shall have the right to enter the property, remove the violation, and restore the property to substantially the same condition as existed prior to the construction, alteration or other work, without being deemed to be a trespasser.

16) Contractors. Any contractor, subcontractor, agent, employee, or other invitee of an Owner who fails to comply with the terms and provisions of this Declaration may be excluded by the ARC from the Project, subject to the notice and the opportunity to be heard. In the event of sanctions after notice and hearing, neither the ARC or the Successor Declarant, nor their employees,



agents, representatives or consultants shall be held liable to any person for exercising the rights granted by this Section.

17) Ivory Homes Catalogue. Any and every home design, plan or specification contained within the Ivory Homes Catalogue shall be considered approved and qualify for construction, and no other consent shall be required, provided the home elevations meet and the home otherwise satisfies all of the architectural control requirements of the City PUD ordinance.. Any and all deviations from the Ivory Homes Catalogue, including by way of illustration but not limitation, design, construction materials and coloration, must be expressly approved in writing by the ARC: The approval of the Ivory Homes Sales staff and/or construction personnel is insufficient.

## ARTICLE 9. ASSESSMENTS

1. Each Owner of any Lot by the acceptance of a deed therefore, whether or not it be so expressed in the deed, hereby covenants and agrees with each other and with the Association to pay to the Association all Assessments, including by illustration but not limitation, all Assessments assessed by or pursuant to the Declaration, Assessments assessed by or pursuant to the Declaration, Special, Individual, or Default Assessments, and other fees, charges, levies, and fines as provided in the Project Documents. Anything to the contrary notwithstanding, the Successor Declarant is not obligated to pay Assessments on Lots it owns.

2. The total annual Assessments against all Lots shall be based upon advance estimates of cash requirements by the Board of Directors to provide for the payment of each Owner's share of the Common Expenses and all estimated expenses growing out of or connected with the maintenance and operation of the Common Area and Facilities, among other things, expenses allocated by or pursuant to the Declaration, expenses allocated by or pursuant to the Declaration, expenses of Management; grounds maintenance; taxes and special assessments levied by governmental authorities until the Lots are separately assessed as provided herein; premiums for all insurance which the Board of Directors is required or permitted to maintain; common lighting and heating; water charges; trash collection; sewer service charges; repairs and maintenance; wages for Board of Directors employees; legal and accounting fees; any deficit remaining from a previous period; the creation of a reasonable contingency reserve, surplus and/or sinking fund; and any other expenses and liabilities which may be incurred by the Board of Directors for the benefit of the Owners under or by reason of this Declaration.

3. Each Lot shall be separately metered for gas and electricity. Costs of gas and electric service to the Lots shall be paid by the individual Owners. Water and sewer for individual Lots shall be separately metered. Costs for water and sewer services to the Lots shall be paid by the individual Owners. Common utilities shall be considered a Common Expense. Water, sewer, gas, electricity, and garbage for Common Area and Facilities may be metered separately or in combination with individual Lots.

4. Expenses attributable to the Common Area and Facilities as a whole shall be apportioned among all Lots not owned by the Successor Declarant equally and uniformly.

5. Annual Assessments shall be made on a calendar year basis. The Board of Directors shall give written notice of each annual Assessment not less than thirty (30) days nor more than sixty (60) days prior to the beginning of the next calendar year. The first annual Assessment shall be for the balance of the calendar year remaining after the date fixed by the Board of Directors. Each annual Assessment shall be due and payable in monthly installments on the first day of each and every month and no separate notices of such monthly installment shall be required. Each monthly Assessment shall bear interest at the rate of eighteen (18%) percent per annum from the date it becomes due and payable if not paid within thirty (30) days after such date.

6. In addition to annual Assessments, the Board of Directors may levy in any Assessment year a Special Assessment, payable over such a period as the Board of Directors may determine, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of the Property or any part thereof, or for any other expense incurred or to be incurred as provided in this Declaration. This paragraph shall not be construed as an independent source of authority for the Board of Directors to incur expenses, but shall be construed to prescribe the manner of assessing for expenses authorized by other paragraphs of this Declaration. Any amounts assessed pursuant hereto shall be assessed to the Owners in proportion to their respective membership interest in the Association. Notice in writing of the amount of such Special Assessments and the time for their payment shall be given as soon as is reasonably possible to the Owners. Payment shall be due on the dates and in the manner provided in the notice. Any Special Assessment or part thereof shall bear interest at the rate of eighteen (18%) percent per annum from the date it becomes due and payable if not paid within thirty (30) days after such date.

7. All sums assessed to any Lot pursuant to this section, together with interest thereon as provided herein, shall be secured by a lien on such Lot in favor of the Association. Such lien shall have such priorities as established by law.

8. To establish a lien for any unpaid Assessment, the Board of Directors shall prepare a written notice of lien as set forth by statute. No notice of lien shall be recorded until there is a delinquency in the payment of an Assessment or other monetary obligation. Such lien may be enforced by judicial foreclosure by the Board of Directors as provided by law. The lien shall also secure, and the Owner shall also be required to pay to the Board of Directors any Assessments against the Lot which shall become due during the period of foreclosure sale or other legal sale. The Board of Directors may bid on the Lot at foreclosure or other sale and may acquire, hold, convey, lease, rent, encumber, use, and otherwise deal with the same as the Owner thereof.

9. A release of lien shall be executed by the Board of Directors and recorded in the office of the County Recorder of Salt Lake County, Utah, upon payment of all sums secured by a lien which has been made the subject of a recorded notice of lien.

10. If an encumbrancer holding a lien on a Lot pays any amounts secured by the lien created by this section, the encumbrancer shall be subrogated to all rights of the Board of Directors with respect to such lien including priority.

11. The Board of Directors shall report to any encumbrancer of a Lot any unpaid Assessments remaining unpaid for longer than ninety (90) days if the encumbrancer has requested in writing such notice.

12. The amount of any Assessment against any Lot shall be the personal obligation of the Owner thereof. Suit to recover a judgment of such personal obligation shall be maintainable by the Board of Directors without foreclosing or waiving the lien securing the same. No Owner may void or diminish any personal obligation by waiver of the use and enjoyment of any of the Common Area or by abandonment of his or her Lot or any amenities.

13. Upon payment of a reasonable fee not to exceed the statutory limit and upon written request of any Owner, any Mortgagee, prospective Mortgagee, or prospective purchaser of a Lot, the Board of Directors shall issue a written statement setting forth the amount of unpaid Assessments, if any, with respect to such Lot; the amount of the current yearly Assessment and the portion thereof which has theretofore been paid; and credit for advanced payments or prepaid items. Such statement shall be conclusive upon the Board of Directors in favor of persons who rely thereon in good faith. Unless such request for a statement of account shall be complied with within ten (10) days, all unpaid Assessments which become due prior to the making of such request shall be subordinate to the lien of a Mortgagee which acquired its interest subsequent to requesting such statement. Where a prospective purchaser makes such a request, both the lien and unpaid Assessments and the personal obligations of the purchaser shall be released automatically if the statement is not furnished within ten (10) days, and that purchaser subsequently acquires the Lot.

14. A purchaser of a Lot shall be jointly and severally liable with the seller for all unpaid Assessments against the Lot up to the time of the conveyance without prejudice to the purchaser's right to recover from the seller the amount paid by the purchaser for such Assessments.

15. The Board of Directors may elect to (a) terminate utilities and the right to use amenities for non-payment of Assessments and/or (b) collect rents directly from a renter if the Lot Owner who is renting the Lot fails to pay any Assessment for a period of more than sixty (60) days after it is due and payable,

16. Any first mortgagee, grantee or purchaser who obtains title to a Lot pursuant to the remedies in the mortgage or trust deed or through foreclosure, including by way of illustration but not limitation, a trustee's deed or deed in lieu of foreclosure, will not be liable for more than six (6) months of the unpaid regularly budgeted assessments, dues or charges which accrued before acquisition of the title to the property by said first mortgagee, grantee or purchaser, although said first mortgagee, grantee or purchaser will also be liable for any reasonable attorneys fees and/or costs related to the collection of said unpaid assessments, dues or charges; provided, however, the foregoing provision does not apply to FHA, FNMA, VA or other federal government agency loans, who shall not be obligated to pay any past due assessments or related costs if that would violate their regulations. All other grantees who obtain title to a Lot in a voluntary conveyance or pursuant to the remedies in a mortgage or trust deed or through foreclosure shall be jointly and severally liable with the trustor or mortgagor for all unpaid assessments, regular and/or special, dues, charges, late fees, default interest

and collection costs, including a reasonable attorneys fee, against the Lot, and for its share of the Common Expenses up to the time of the grant or conveyance, without prejudice to the grantee's rights to recover from the trustor or mortgagor the amounts paid by the grantee.

17. Any Assessment, fine, or other monetary obligation shall bear interest at a rate to be determined by the Board of Directors from the date it becomes due and payable if not paid within thirty (30) days after such date.

18. A late fee in a sum to be determined by the Board of Directors may be charged on any payment not paid within ten (10) days after its due date.

#### ARTICLE 10. INSURANCE

1. Each Owner shall obtain:

a) public liability insurance; and

b) insurance against loss or damage by fire or other hazards for his or her Lot, Home and all physical improvements thereon or therein. Each Owner shall provide the Association with a Certificate of Insurance upon request. The insurance premium shall be an individual expense. The Owner shall obtain and keep in full force and effect at all times the required insurance coverage provided by companies duly authorized to do business in Utah. The provisions of this subsection shall not be construed to limit the power or authority of the Owner to obtain and maintain insurance coverage in addition to any insurance coverage required hereunder, in such amounts and in such forms as he or she may deem appropriate; and

c) any other insurance and endorsement recommended by the Owner's independent insurance agent.

2. The Board of Directors shall obtain and keep in full force and effect at all times the following insurance coverage provided by companies duly authorized to do business in Utah (collectively, "Master Policy").

a) broad form comprehensive liability coverage in such amounts and in such forms as it deems advisable to provide adequate protection. Coverage shall at a minimum include liability for personal injuries, operation of automobiles on behalf of the Association or Board of Directors, and activities in connection with the ownership, operation, maintenance, and other use of the Property;

b) adequate property insurance for the Common Area improvements; and

c) directors and officers insurance; and

d) workers' compensation or employers' liability insurance and all other similar insurance in respect to employees of the Board of Directors in the amounts and in the forms now or

hereafter required by law; and

e) a fidelity bond or employee theft coverage in the amount of 150% of the Association's estimated annual Common Expenses and reserves, to insure against dishonesty of employees, destruction or disappearance of money or securities, and forgery; and

f) additional insurance and endorsements against such other risks of a similar or dissimilar nature as it shall deem appropriate with respect to the project, including any personal property, equipment, motor vehicles and so forth located thereon.

This Section is without prejudice to the right and obligation of each Owner to insure his own property. The provisions of this section shall not be construed to limit the power or authority of the Board of Directors to obtain and maintain insurance coverage in addition to any insurance coverage required hereunder, in such amounts and in such forms as the Manager, Board of Directors, or Association may deem appropriate. The Board of Directors may adjust claims and establish the amount of any deductible on the Association's hazard insurance.

#### **ARTICLE 11. CASUALTY DAMAGE OR DESTRUCTION**

1. All of the Owners irrevocably constitute and appoint the Board of Directors their true and lawful agent in their name, place, and stead for the purpose of dealing with the Property upon its damage or destruction. Acceptance of a deed from the Successor Declarant or from any Owner shall constitute appointment of the Board of Directors as attorney-in-fact for the limited purposes as herein provided.

2. As attorney-in-fact, the Board of Directors shall have full and complete authority, right, and power to make, execute, and deliver any contract, deed, or other instrument with respect to the interest of an Owner which may be necessary or appropriate to exercise the powers herein granted. Repair and reconstruction of the improvements as used in the succeeding subparagraphs means restoring the Property to substantially the same condition in which it existed prior to damage, with each Lot and the Common Area having substantially the same vertical and horizontal boundaries as before.

3. In the event any Mortgagee should not agree to rebuild, the Board of Directors shall have the option to purchase such mortgage on behalf of the Association by payment in full of the amount secured thereby. The Board of Directors may obtain the funds for such purpose by Special Assessments.

4. As soon as practicable after receiving estimates, the Board of Directors shall diligently pursue completion of the repair or reconstruction of the part of the Property damaged or destroyed, but only if the Property is damaged or destroyed to the extent of 75% or less than the value thereof. In the event the Property is destroyed or damaged to the extent of more than 75% of the value thereof, the Owners shall, at a meeting within one hundred (100) days after such damage or destruction duly called by the Board of Directors for the purpose, determine whether or not said premises should be rebuilt,

repaired, or disposed of. Unless Owners representing at least 80% of the undivided interest in the Common Area agree to the withdrawal of the Property from the provisions of the Act and this Declaration and to its subsequent disposal, the Property shall be repaired, rebuilt, or restored to substantially the same condition it was in immediately prior to destruction or damage. The Board of Directors may take all necessary or appropriate action to effect repair or reconstruction, as attorney-in-fact for the Owners, and no consent or other action by any Owner shall be necessary in connection therewith. Such repair or reconstruction shall be substantially in accordance with the original plans and specifications of the Property or may be in accordance with any other plans and specifications the Owners may approve, provided that in such latter event the number of cubic feet and the number of square feet of any Lot may not vary by more than 5% from the number of cubic feet and the number of square feet for such Lot as originally constructed pursuant to the original plans and specifications, and the location of any building shall be substantially the same as prior to damage or destruction. The same easements for encroachments shall apply under the provisions of this Section.

5. The proceeds of any insurance collected shall be available to the Board of Directors for the purpose of repair or reconstruction. If the proceeds of insurance are insufficient to pay the estimated or actual cost of such repair or reconstruction, the Board of Directors may levy in advance, a Special Assessment sufficient to provide funds to pay the estimated or actual costs of repair or reconstruction. Such Assessment shall be allocated and collected as provided in this Declaration. Further levies may be made in like manner if the amounts collected prove insufficient to complete the repair or reconstruction.

6. The insurance proceeds held by the Board of Directors and the amounts received from Assessments constitute a fund for the payment of cost of repair and reconstruction after casualty. It shall be deemed that the first money disbursed in payment for cost or repair of reconstruction shall be made from insurance proceeds; if there is a balance after payment of all costs of such repair or reconstruction, such balance shall be distributed to the Owners in proportion to the contributions each Owner made pursuant to the Assessments the Board of Directors made hereunder.

7. If 75% of the Owners and all holders of first mortgages on Lots agree not to rebuild, as provided herein, the Property may be removed from the provisions as prescribed therein. Withdrawal shall be in accordance with the Utah Statutes.

## **ARTICLE 12. BOARD OF DIRECTORS RIGHTS AND OBLIGATIONS**

1. The business, property, and affairs of the Association shall be managed by a Board of Directors composed of three (3) individuals. Until the first regular meeting of the Association is held pursuant after the termination of the Period of Successor Declarant's Control, the Successor Declarant alone shall be entitled to select the three (3) members of the Board of Directors. In the event a Director's seat which was filled by Successor Declarant becomes vacant, Successor Declarant shall have the right to select a replacement member to sit on the Board for the balance of the term associated with the vacated seat. In all other cases of vacancy, the remaining Directors shall elect a replacement as provided in the Bylaws.

2. The Board of Directors may exercise any right or privilege given to it expressly by this Declaration, by law, and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.

3. The Board of Directors shall have the rights and obligations set forth in the Bylaws.

4. The Board of Directors shall be responsible for the exclusive management and control of the Common Area and Facilities, and all improvements thereon (including furnishings and equipment related thereto), and shall keep the same in good, clean, attractive, and sanitary condition, order, and repair. The Board of Directors shall be responsible for repair or replacement of Common Area and Facilities and shall have the exclusive right to contract for all goods, services, and insurance payments which are made for such repairs or replacement. The cost of such management, operation, maintenance, and repair by the Board of Directors shall be a Common Expense.

5. The Board of Directors may obtain and pay for the services of any person or entity to manage its affairs, or any part thereof, to the extent it deems advisable, as well as such other personnel as the Board of Directors shall determine to be necessary or desirable for the proper operation of the Property, whether such personnel are furnished or employed directly by the Board of Directors or by any person or entity with whom or which it contracts. The Board of Directors may obtain and pay for legal and accounting services as necessary or desirable in connection with the operation of the Property; the enforcement of this Declaration, the Bylaws, or any Rules and Regulations. The Board of Directors may arrange with others to furnish lighting, water, snow removal, grounds maintenance, and other common services.

6. The Board of Directors may acquire and hold, for the use and benefit of all Owners, tangible and intangible personal property and may dispose of the same by sale or otherwise, and the beneficial interest in any such property shall be deemed to be owned by the Owners in the same proportion as their respective interests in the Association.

7. The Board of Directors may make Rules and Regulations governing the use of the Lots and of the Common Area and Facilities.

8. The Board of Directors may suspend an Owner's voting rights for the period during which such Owner fails to comply with the Project Documents. Notice of non-compliance will be sent to an Owner at least ten (10) days prior to any meeting at which action may be taken by the Board of Directors. The Board of Directors may also take judicial action against any Owner to enforce compliance with the Project Documents, with other obligations, or to obtain damages for non-compliance, all to the extent permitted by law.

9. The Board of Directors may fine or otherwise sanction an Owner or Permittee for a violation of the Project Documents.

### **ARTICLE 13. CAPITAL IMPROVEMENTS**

All expenses for Capital Improvements shall be governed by and subject to the following conditions, limitations and restrictions:

1. The Board of Directors may authorize any Capital Improvement or Addition to the Project for which there are sufficient funds in the Operating Account or a designated Reserve Account without a special assessment. Any other Capital Improvement or Addition to the Project which costs ten percent (10%) or less of the Total Annual Budget, and does not alter the nature of the Project, may be authorized by the Board of Directors (the "Capital Improvement Ceiling"); provided, however, any such Capital Improvement or Addition, the cost of which will exceed the Capital Improvement Ceiling, must, prior to the commencement of construction, be authorized by at least a majority of the percentage of undivided ownership interest in the Common Area.

2. A major repair or replacement, or a major maintenance expense, shall not be considered a Capital Improvement or Addition.

3. Any Capital Improvement or Addition which would materially alter the nature of the Project (e.g., eliminating a swimming pool, changing the roofing materials, the construction of the external Building surfaces, color scheme, etc.) must, regardless of its cost and prior to being constructed or accomplished, be authorized by at least sixty-seven (67%) percent of the undivided ownership interest in the Common Area.

#### **ARTICLE 14. OPERATION, MAINTENANCE, AND ALTERATIONS**

Each Lot and the Common Area shall be maintained, repaired, and replaced in accordance with the following covenants, conditions and restrictions:

1. The Lots and Common Area and Facilities shall be maintained in a usable, clean, functional, safe, sanitary, attractive, and good condition.

2. The Association is responsible for the maintenance, repair, and replacement all of the Common Area and Facilities within or serving the Project unless otherwise expressly noted (the "Area of Common Responsibility").

3. Each Owner shall maintain, repair, and replace his or her Lot, the driveway and walkways servicing only his or her Unit, and the following improvements (whether or not such improvements are located within his or her Lot), including without limitation, all individual services such as power, light, gas, hot and cold water, heating, refrigeration, air conditioning, fixtures, windows and window systems, glass, doors and door systems, garage doors and garage door systems, patios, balconies and decks, plumbing fixtures, systems and lateral pipes or valves, and all concrete, including the driveway, sidewalks, walkways, steps, porch and landing serving or servicing only his Lot, including any damage caused thereby and not covered by insurance. Each Owner shall also maintain any Common Area or Facility appurtenant to his or her Lot broom clean and free of debris, including his or her driveway, walkways, porch, landing, patio, deck or balcony, broom clean and free of grease



spills, leaks, personal property, trash, litter, and debris. All maintenance, repairs, and replacements are subject to the approval of the Board of Directors as to construction materials, quality of construction and installation, and uniformity of appearance. No Owner shall allow his or her Lot or the Common Area and Facilities adjacent thereto to detract from the health, safety, or uniform appearance or design of the Project. Any repairs or replacements to physical improvements Visible to a Neighboring Property, including by way of illustration but not limitation, all driveways and walkways appurtenant to a Lot, are conditional upon and subject to the prior written approval of the Board of Directors in order to maintain quality of construction and uniformity of appearance. Any such repairs not approved by the Board of Directors shall be considered unacceptable and non-conforming.

4. Anything to the contrary notwithstanding, (a) the Association, as part of its Area of Common Responsibility, is responsible for providing, contracting and/or subcontracting for the care, maintenance, repair, and replacement of the exterior surfaces of any Building in order to maintain quality of construction and uniformity of appearance, and (b) each Owner, as part of his or her Area of Personal Responsibility, is personally and individually responsible to pay for his or her Building Exterior Assessment, which shall not be considered a Common Expense.

5. To protect, honor, and preserve the integrity and aesthetics of the Project, all landscaping within the Project shall be maintained and cared for in a manner consistent with the (i) design scheme, standards of design, appearance and quality of construction originally established by Declarant and (ii) in accordance with any City landscaping maintenance plans or ordinances. All landscaping shall be maintained in a safe, sanitary, and aesthetic condition. Any weeds or diseased or dead lawn, trees, ground cover, or shrubbery shall be removed and replaced. All lawn areas shall be mowed and edged; all trees, shrubs, and bushes shall be pruned, trimmed, and topped. No landscaping may adversely affect the value or use of any other Lot, or to detract from the uniform design and appearance of the Project established by the Successor Declarant. The Board of Directors may adopt, amend, or repeal written landscaping rules, regulations, guidelines, standards, controls, and restrictions from time to time.

6. If (except in the case of an emergency) after written notice and a hearing, it is determined that any responsible party has failed or refused to discharge properly his or her obligation with regard to the maintenance, repair, or replacement of the real property and improvements described herein, or that the need for maintenance, repair, or replacement thereof is caused through the willful or negligent act of any person, then the Association or Board of Directors may, but is not obligated to, provide such maintenance, repair, or replacement at the defaulting or responsible party's sole cost and expense (the "Default Maintenance Cost"). The Default Maintenance Cost is the debt of such defaulting or responsible party at the time the expense is paid and shall be collectible as such. In addition, it may be considered a "Fine" against an Owner. A Fine assessed hereunder which remains unpaid after the time for appeal has expired becomes a lien against the Owner's interest in the property in accordance with the same standards as a lien for the nonpayment of Common Expenses hereunder.

7. The Successor Declarant may make changes to the design and construction of the improvements located in or on the Common Area without additional approval required, including without limitation, the consent of the Board of Directors or Members of the Association; provided,

however, no Owner or Permittee may make any structural alterations to the Common Area and Facilities, without the express prior written consent of the Board of Directors.

8. No Owner shall do any work or make any alterations or changes which would jeopardize the soundness or safety of the Property, reduce its value or impair any easement or hereditament without, in every such case, the unanimous written consent of all the other Owners being first had and obtained.

9. Each Owner is responsible for the removal of ice and snow accumulations from his or her driveway, walkways, steps, and porch.

10. The Association is responsible for the removal of snow and ice accumulations from the Common Area.

11. The Association is not responsible to remove snow and ice accumulations from a Lot, including by way of illustration but not limitation the driveway or walkways up to a Home.

#### **ARTICLE 15. ENTRY AND CENTRAL DIRECTORY**

1. The entry monument and sign placed within the Common Area shall be maintained by the Owners in all respects. In the event of a partial or total destruction of the sign from any cause, the Owners shall rebuild the sign to restore it to its original dimensions and conditions consistent with applicable law. The Association shall have the sole and exclusive right to allocate the space on said sign for any and all purposes.

2. Any signs comprising a part of a central directory to the Lots or business development, or individual signs attached to individual Lots shall conform in all respects to the Bylaws as administered by the Board of Directors.

#### **ARTICLE 16. DUTY OF OWNER TO PAY TAXES ON LOT OWNED**

Each Lot and its appurtenant membership interest in the Association is subject to separate assessment and taxation of each taxing authority and the special district(s) for all types of taxes and Assessments authorized by law, and that as result thereof, no taxes will be assessed or levied against the Property as such. Accordingly, each Owner will pay and discharge any and all taxes and assessments which may be assessed on that Lot.

#### **ARTICLE 17. ALLOCATION OF PROFITS, LOSSES, AND VOTING RIGHTS**

1. Voting rights and membership in the Association shall be distributed among the Lots equally. The ownership interest of each Lot and membership in the Association shall have a permanent character and shall not be altered without the express affirmative consent of at least two-thirds (2/3) of the Lots memorialized in an amendment to this Declaration duly recorded. Membership in the Association cannot be separated from the Lot.

2. The Association shall have two (2) classes of membership -- Class A and Class B, described more particularly as follows:

a. Class A Members shall be all Owners with the exception of the Class B Members, if any.

b. Class A Members shall be entitled to vote on all issues before the Association to, subject to the following: (i) Each Lot shall have one (1) vote; (ii) no vote shall be cast or counted for any Lot not subject to assessment; (iii) when more than one person or entity holds such interest in a Lot, the vote for such Lot shall be exercised as those persons or entities that they determine and advise the Secretary of the Association prior to any meeting. In the absence of such advice, the vote of the Lot shall be suspended in the event more than one person or entity seeks to exercise it; and (iv) any Owner who has leased his or her Lot may, in the lease or other written instrument, assign the voting right appurtenant to that Lot to the lessee, provided that a copy of such instrument is furnished to the Secretary of the Association prior to any meeting.

c. Class B Member shall be the Successor Declarant and any successor of Successor Declarant who takes title for the purpose of development and sale of Lots, and who is designated as such in a recorded instrument executed by Successor Declarant. The Class B Member is entitled to three (3) votes per Lot owned; provided, however, anything to the contrary notwithstanding, the Class B Member shall never have less than one more vote than all Class A votes combined. The Class B membership and the Period of Successor Declarant's Control shall terminate, and Class B membership shall convert to Class A membership upon the happening of the earlier of the following (the "Event" or "Events"): (1) After all of the Lots have been sold by the Successor Declarant or (2) when, in its sole discretion, Successor Declarant so determines and records in the office of the Salt Lake County Recorder a written "Notice of Termination of Period of Successor Declarant's Control." From and after the happening of these Events, whichever occurs earlier, the Class B Member shall be considered a Class A Member entitled to one (1) vote for each Lot owned.

## ARTICLE 18. AMENDMENT OF THIS DECLARATION

1. Successor Declarant's Right to Amend Unilaterally Prior to Termination of Successor Declarant's Right to Control. Prior to the expiration of the Period of Successor Declarant's Control, Successor Declarant, including an additional successor Successor Declarant, may unilaterally amend this Declaration for any purpose.

2. Unilateral Right to Amend Under Certain Conditions. Notwithstanding anything contained to the contrary, this Declaration may be amended unilaterally at any time and from time to time by Successor Declarant if such Amendment is (1) necessary to correct typographical errors or inadvertent omissions; (2) necessary to bring any provision hereof into compliance with any applicable governmental statute, rule, regulation, or judicial determination which shall be in conflict therewith; or (3) reasonably necessary to enable any reputable title insurance company to issue title

insurance coverage with respect to the Lots subject to this Declaration; provided, however, any such Amendment shall not materially adversely affect the title to any Lot unless any such Owner shall consent thereto in writing.

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

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

5. Successor Declarant's Approval Required. So long as Successor Declarant owns a Lot the Declaration may not be amended without its prior written consent.

6. Consent of Eligible Mortgagee. The consent of Eligible Mortgagees holding at least sixty seven percent (67%) of the undivided ownership interest in the Property in the Common Area and Facilities and shall be required to any amendment which would terminate the legal status of the Property; and the consent of Eligible Mortgagees holding at least fifty-one (51%) percent of the undivided ownership interest of the Owners in the Property in the Common Area and Facilities shall be required to add to or amend any material provision of this Declaration or the Final Plat which establishes, provides for, governs, or regulates any of the following, which are considered as

"material":

- a. voting rights;
  - b. increases in Assessments that raise the previously assessed amount by more than twenty-five (25%) percent, Assessment liens, or the priority of Assessments liens;
  - c. reduction in reserves for maintenance, repair, and replacement of the Common Area and Facilities;
  - d. responsibility for maintenance and repairs;
  - e. reallocation of interests in the Common Area and Facilities, or rights to their use;
  - f. redefinition of any Lot boundaries;
  - g. convertibility of Lots into Common Area and Facilities or vice versa;
  - h. expansion or contraction of the Property, or the addition, annexation, or withdrawal of property to or from the Property;
  - i. hazard or fidelity insurance requirements;
  - j. imposition of any restrictions on the leasing of Lots;
  - k. imposition of any restrictions on an Owner's right to sell or transfer his or her Lot;
  - l. a decision by the Association to establish self-management if professional management had been required previously by the Project Documents or by an Eligible Mortgage holder;
  - m. restoration or repair of the Property (after damage or partial condemnation) in a manner other than that specified in the documents;
  - n. any provisions that expressly benefit mortgage holders, insurers, or guarantors;
- and
- o. any provisions required by Utah State Department of Real Estate (or similar agency), FHA, VA, the FHLMC, or FNMA, any other federal, state, or local governmental agency or a federally chartered lending institution, which in all respects shall govern and control.

8. Material Amendment. Any addition or amendment shall not be considered material for purposes of this Section if it is for the clarification only or to correct a clerical error.

9. Notice to Eligible Mortgagee. Notice of any proposed amendment to any Eligible

Mortgagee to whom a written request to approve an addition or amendment to this Declaration or the Plat Final Plat is required shall be mailed postage prepaid to the address for such Mortgagee shown on the list maintained by the Association. Any Eligible Mortgagee who does not deliver to the Board of Directors or the Association a negative response to the notice of the proposed amendment within sixty (60) days from the date of such mailing shall be considered to have approved the proposal and given its implied consent. The foregoing consent requirements shall not be applicable to amendments to this Declaration and the Plat Final Plat or the termination of the legal status of the Project if such amendments or such termination are made or accomplished in accordance with the provisions of this Declaration regarding Condemnation or Substantial Obsolescence.

## ARTICLE 19. EXPANSION

1. Reservation of Option to Expand. Successor Declarant hereby reserves the option to expand the Project to annex additional real estate and include additional Lots. This option to expand may be exercised from time to time, at different times and in any order, without limitation, provided however, the option shall expire seven (7) years from the date following the first conveyance of a Lot in Phase I to a Lot purchaser unless sooner terminated by Successor Declarant's recorded Waiver of such option, there being no other circumstances which will cause the option to expire prior to said seven (7) years. Such right may be exercised without first obtaining the consent or vote of Lot Owners and shall be limited only as herein specifically provided. Such Lots shall be constructed on any or all portions of the Additional Land.

2. Supplemental Declarations and Supplemental Final Plats. Such expansion may be accomplished by the filing for record by Successor Declarant in the office of the County Recorder of Salt Lake County, Utah, no later than seven (7) years from the date this Declaration is recorded, a Supplement or Supplements to this Declaration containing a legal description of the site or sites for new Lots, together with supplemental Final Plat or Final Plats containing the same information with respect to the new Lots as was required on the Final Plat with respect to the Phase I Lots. The expansion may be accomplished in phases by successive supplements or in one supplemental expansion.

3. Expansion of Definitions. In the event of such expansion, the definitions used in this Declaration automatically shall be expanded to encompass and refer to the Property as so expanded. The term "Property" shall mean the real property initially submitted hereunder, plus any Land added to the Project by a Supplemental Declaration or by Supplemental Declarations, and reference to this Declaration shall mean this Declaration as so supplemented. All conveyances of Lots after such expansion shall be effective to transfer rights in the Property, with additional references to the Supplemental Declaration and the Supplemental Final Plat. The recordation in the office of the Salt Lake County Recorder of a Supplemental Final Plat incident to any expansion shall operate automatically to grant, transfer, and convey to then Owners of Lots in the Project as it existed before such expansion the respective undivided interests in the new Common Area added to the Property as a result of such expansion. Such recordation shall also operate to vest in any then mortgagee of any Lot in the Property as it existed, interest so acquired by the Owner of the Lot encumbering the new Common Area added to the Property as a result of such expansion.

4. Declaration Operative on New Lots. The new Lots shall be subject to all the terms and conditions of this Declaration and of a Supplemental Declaration, and the Lots therein shall be subject to ownership within a planned development with all the incidents pertaining thereto as specified herein, upon recording the Supplemental Final Plat and Supplemental Declaration in the said office of the Salt Lake County Recorder.

5. Right of Successor Declarant to Adjust Ownership Interest in Common Area. Each deed of a Lot shall be deemed to irrevocably reserve to the Successor Declarant the power to appoint to Lot Owners, from time to time, the percentages in the Common Area set forth in Supplemental or Declaration. The proportionate interest of each Lot Owner in the Common Area after any expansion of the Property shall be an undivided interest of the Property as expanded. A power coupled with an interest is hereby granted to the Successor Declarant, its successors and assigns, as attorney-in-fact to shift percentages of the Common Area in accordance with Supplemental or Declarations recorded pursuant hereto and each deed of a Lot in the Project shall be deemed a grant of such power to the Successor Declarant. Various provisions of this Declaration and deeds and mortgages of the Lots may contain clauses designed to accomplish a shifting of the Common Area. None of said provisions shall invalidate the other, but each shall be deemed supplementary to the other toward the end that a valid shifting of the Common Area can be accomplished. Notwithstanding anything to the contrary herein, no change in the percentage of undivided interest in the Common Area may be effected more than seven (7) years after the effective date of this Declaration.

6. Revised Schedule. Accordingly, upon the recordation of a Supplemental Declaration and Supplemental Final Plat incident to any expansion, the revised schedule of undivided interests in the Common Area contained therein shall automatically become effective for all purposes and shall fully supersede any similar schedule which was contained in any Declaration associated with any prior phase. In the event the provisions of the separate instruments relating to the Property conflict irreconcilably, the terms of that instrument which was recorded most recently shall control.

7. Other Provisions Concerning Expansion. If the Project is expanded as hereinbefore contained, then it is further provided that:

a. All or any part of the additional land may be added to the Project without any limitations whatsoever save and except that all additional Lots created must be restricted to multi-family residential housing limited to one family per Lot.

b. Portions of the additional land may be added to the Project at different times without any limitations.

c. Successor Declarant shall have the right without further conveyance or documentation to build roads and access ways to the additional land through the easement areas as shown on the Final Plat. The Association of Lot Owners shall not allow anything to be built upon or interfere with said easement areas.

d. No assurances are made concerning:

1) The locations of any improvement that may be made on any portion of additional land that may be added to the Project.

2) Type, kind, or nature of improvement which may be created on any portion of the additional land, except that the common facilities, Buildings, and Lots will be comparable to the initial facilities on a per Lot basis and will be of a similar quality of materials and construction to the initial phase and will be substantially completed prior to annexation.

3) Whether any Lots created on any portion of the additional land will be substantially identical to those within the initial phase except that Lots will be constructed of an equal or better quality of materials and construction than the Lots in the initial phase.

4) Type, size, or maximum number of Common Area and Facilities which may be created within any portion of the additional land added to the Project.

e. Notwithstanding anything to the contrary which may be contained herein, this Declaration is not intended and shall not be construed so as to impose upon Successor Declarant any obligation respecting, or to restrict Successor Declarant in any way with regard to:

1) the submission of any portion of the additional land to the provisions of the Act as Land under this Declaration;

2) the creation, construction, or addition to the Project of any additional land;

3) the carrying out in any particular way or within any particular time of any development which may be undertaken except as herein mentioned; or

4) the taking of any particular action with respect to the additional land.

f. Assuming that only the initial phase of the Echo Ridge development is completed, the minimum number of Buildings would be 22; the minimum number of Lots would be 22; and the maximum percentage of ownership interest of each Lot in the Project would be 4.5%; provided, however, the number of Lots in the Subdivision, the number of Lots actually constructed and the actual undivided percentage of ownership interest of each Lot and/or Lot may actually be less than the percentages set forth above.

## **ARTICLE 20. TRANSFER OF MANAGEMENT**

Anything to the contrary notwithstanding, Successor Declarant may at any time relinquish its reserved right to select the Directors and may elect to transfer the management of the Project to a Board of Directors elected by the Owners. Upon the termination of the Period of Successor



Declarant's Control, or sooner if the Successor Declarant so elects, Successor Declarant shall notify Owners in writing of the effective date of such transfer (the "Transfer Date"). The transfer shall be considered effective on the date of the Notice of Transfer Date letter. Thereupon, the Owners shall be obligated to call a meeting to elect the members of the Owner controlled Board of Directors to take office as of the Transfer Date. Successor Declarant covenants to cooperate with the Owners in effecting an orderly transition of management. The Owners covenant with the Successor Declarant to cooperate with Successor Declarant in effecting an orderly transition of management. Successor Declarant shall cause all obligations for Common Expenses of the Association prior to the Transfer Date to be paid in full on or before such date, and shall transfer any Association funds to the newly elected Board of Directors.

#### **ARTICLE 21. WORKING CAPITAL FUND**

A working capital fund shall be established by the Successor Declarant equal to or greater than two (2) months' Assessments for each Lot. Each Lot's share of the working capital fund shall be paid by the buyer of a Lot, collected by the title company, and transferred to the Association at the time of closing of the sale of each Lot. If the working capital contribution is paid for by the Successor Declarant, in cash or kind, then the Successor Declarant shall be reimbursed for such contribution by the buyer of such Lot at the time of closing. The purpose of the working capital fund is to ensure that the Board of Directors will have cash available to satisfy unforeseen expenses or to acquire additional equipment or services necessary for the operation, control, and regulation of the Property. Sums paid into the working capital fund are not to be considered advance payments of regular monthly payments of Common Expenses. Thereafter, the Board of Directors may continue the working capital fund by charging a reasonable transfer or impact fee when Lots are sold or rented.

#### **ARTICLE 22. REINVESTMENT FEE**

The buyer of a Lot shall pay to the Association at the time of closing or settlement of the sale of the Lot shall pay the Association a reinvestment fee in a sum to be determined by the Board of Directors. The amount may not exceed that sum allowed by statute.

#### **ARTICLE 23. SUCCESSOR DECLARANT'S SALES PROGRAM**

1. Sales Office and Model Homes. Successor Declarant shall have the right to maintain one (1) or more sales offices and one (1) or more model Lots at any one time. Such office and/or models may be one or more of the Lots owned by the Successor Declarant, one or more separate structures or facilities placed on the Property for the purpose of aiding Successor Declarant's sales effort, or any combination of the foregoing.

2. Promotional. Successor Declarant shall have the right to maintain a reasonable number of promotional, advertising and/or directional signs, banners or similar devices at any place or places on the Property in accordance with city ordinances.

3. Common Area Use. Successor Declarant shall have the right to use the Common Area of the Project including but not limited to the right to use the Clubhouse as a sales office and in any other way necessary to facilitate sales.

4. Relocation and Removal. Successor Declarant shall have the right from time to time to locate or relocate any of its sales offices, models, or signs, banners or similar devices, but in connection with each such location or relocation shall observe the limitations imposed by the preceding portion of this Section. Within a reasonable period of time after the happening of the Event, Successor Declarant shall have the right to remove from the Project any signs, banners or similar devices and any separate structure or facility which was placed on the Property for the purpose of aiding Successor Declarant's sales effort.

5. Restrictions in Favor of the Successor Declarant. The recreational amenities or facilities at the Project may not be subject to any restriction or reservation in favor of the Successor Declarant or any of its affiliates.

6. Limitation on Improvements by Association. Neither the Association nor the Board of Directors shall, without the written consent of Successor Declarant, make any improvement to or alteration in any of the Common Area and Facilities created or constructed by Successor Declarant, other than such repairs, replacements, or similar matters as may be necessary to properly maintain the Common Area as originally created or constructed by Successor Declarant.

7. Rights Assignable. All of the rights of Successor Declarant under this Declaration may be assigned or transferred either by operation of law or through a voluntary conveyance, transfer or assignment. Any Mortgage covering all Lots, Homes or Buildings in the Project title to which is vested in the name of Successor Declarant shall, at any given point in time and whether or not such Mortgage does so by its terms, automatically cover, encumber, and include all of the then unexercised or then unused rights, powers, authority, privileges, protections and controls which are accorded to Successor Declarant in this Declaration.

## **ARTICLE 25. ENFORCEMENT AND RIGHT TO RECOVER ATTORNEYS' FEES**

1. General Remedies. Should the Association, Board of Directors, Manager, or an aggrieved Owner be required to take action to enforce the Project Documents, or to pursue any remedy provided hereunder or by applicable law, whether such remedy is pursued by filing suit or otherwise, they may recover all Additional Charges, including a reasonable attorney's fee, which may arise or accrue.

2. Additional Remedies. In addition, the Board of Directors may impose the following sanctions after proper notice and the opportunity to be heard:

a. imposing Individual Charges, Default Assessments, and fines, which may be secured by a lien against the Owner's interest in the Property;

- b. suspending an Owner's right to vote;
- c. suspending any Person's right to use any of the recreational amenities located in the Common Area; provided, however, nothing herein contained shall authorize the Board of Directors to limit ingress or egress to or from a Lot;
- d. requiring an Owner at his or her sole expense to remove any structure or improvement in the Common Area and Facilities, and upon the failure of the Owner to do so, the Board of Directors or its designee shall have the right to enter the property, remove the violation, and restore the property to its original condition, and such action shall not be deemed a trespass;
- e. without liability to any Person, precluding any contractor, subcontractor, agent, employee, or other invitee of an Owner who fails to comply with the Project Documents; and
- f. levying Individual Charges or a Default Assessment to cover costs and expenses incurred by the Association to bring an Owner into compliance.

#### **ARTICLE 25. SERVICE OF PROCESS**

Until changed by amendment to this Declaration, the name of the person to receive service of process and the place of his residence is:

Christopher P. Gamvroulas  
978 East Woodoak Lane  
Salt Lake City, Utah 84117

#### **ARTICLE 26. MORTGAGEES**

Notwithstanding all other provisions hereof:

1. The liens created hereunder upon any Lot shall be subject to and subordinate to, and shall not affect the rights of the holder of the indebtedness secured by any recorded first mortgage (meaning a mortgage or a trust deed with first priority over other mortgages) where such interest was made in good faith and for value, provided that after the foreclosure of any such mortgage there may be a lien on the interest of the purchaser at such foreclosure sale to secure all Assessments made pursuant to this Declaration after the date of such foreclosure sale, which lien shall have the same effect and be enforced in the manner as provided herein. All other mortgages shall have such rights and priorities as established by law.
2. No amendment to this paragraph shall affect the rights of the holder of any such mortgage who does not join in the execution thereof.

#### **ARTICLE 27. INDEMNIFICATION OF BOARD OF DIRECTORS**

Each member of the Board of Directors shall be entitled to be indemnified and held harmless

by the Owners against all cost, expenses, and liabilities whatsoever, including attorneys' fees reasonably incurred by him or her in connection with any proceeding to which he or she may become involved by reason of being or having been a member of the Committee.

#### **ARTICLE 28. SEVERABILITY**

If any provision, paragraph, sentence, clause, phrase, or word of this Declaration should under any circumstance be invalidated, such invalidity shall not affect the validity of the remainder of this Declaration, and the application of any such provision, paragraph, sentence, clause, phrase, or word in any other circumstances shall not be affected thereby.

#### **ARTICLE 29. TOPICAL HEADINGS**

The headings appearing at the beginning of the paragraphs of this Declaration are only for convenience of reference and are not intended to describe, interpret, define, or otherwise affect the content, meaning, or intent of this Declaration of any paragraph or provision hereof.

#### **ARTICLE 30. INCORPORATION OF DECLARATION AS SUPPLEMENTED AND AMENDED**

This Declaration document is supplemental to the Declaration which is by reference made a part hereof, and all of the terms, conditions, and provisions thereof, unless specifically modified herein, are to apply to the Property and are made a part of this document as though they were expressly rewritten, incorporated, and included herein.

#### **ARTICLE 31. CONFLICT**

1. In case any provisions hereof shall conflict with Utah law, Utah law shall be deemed to control.
2. In case any provisions of the Declaration and the Declaration conflict, the latter shall in all respects govern and control

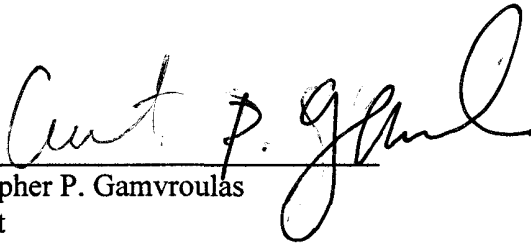
#### **ARTICLE 32. EFFECTIVE DATE**

This Declaration shall take effect upon recording in the office of the County Recorder of Salt Lake County, Utah.

IN WITNESS WHEREOF, the undersigned has hereunto set its hand this 22 day of ~~September, 2013.~~

*February, 2014*  
SUCCESSOR DECLARANT:  
IVORY DEVELOPMENT, LLC.

By: \_\_\_\_\_

A handwritten signature in black ink, appearing to read "Chris P. Gamvroulas", written over a horizontal line.

Name: Christopher P. Gamvroulas

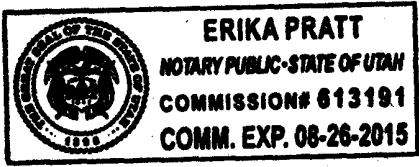
Title: President

**ACKNOWLEDGMENT**

STATE OF UTAH                    )  
  SS:  
COUNTY OF SALT LAKE    )

The foregoing instrument was acknowledged before me this 22 day <sup>February, 2014</sup> ~~September, 2013~~ by Christopher P. Gamvroulas, as President of IVORY DEVELOPMENT, LLC, a Utah limited liability company, and said Christopher P. Gamvroulas duly acknowledged to me that said IVORY DEVELOPMENT, LLC executed the same.

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



**EXHIBIT "A"**  
**LEGAL DESCRIPTION**

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

Lots 1 through 21, inclusive, ECHO RIDGE SUBDIVISION PLAT PHASE 1, according to the official plat thereof as recorded in the office of the Salt Lake County Recorder.

Parcel Nos. 26-10-227-001, 26-10-227-002, 26-10-227-003, 26-10-227-004, 26-10-227-005, 26-10-226-008, 26-10-229-001, 26-10-229-002, 26-10-229-003, 26-10-229-004, 26-10-229-005, 26-10-229-006, 26-10-230-001, 26-10-228-008, 26-10-228-007, 26-10-228-006, 26-10-228-005, 26-10-228-004, 26-10-228-003, 26-10-228-002, 26-10-228-001, 26-10-229-007, 26-10-230-002

Lots 22 through 46, inclusive, ECHO RIDGE SUBDIVISION PLAT PHASE 2, according to the official plat thereof as recorded in the office of the Salt Lake County Recorder.

Parcel Nos. 26-10-228-009, 26-10-228-010, 26-10-228-011, 26-10-228-012, 26-10-228-013, 26-10-228-014, 26-10-228-015, 26-10-228-016, 26-10-228-017, 26-10-228-018, 26-10-228-020, 26-10-228-019, 26-10-230-006, 26-10-230-007, 26-10-230-008, 26-10-230-009, 26-10-230-010, 26-10-230-005, 26-10-230-004, 26-10-230-003, 26-10-227-006, 26-10-227-007, 26-10-231-003, 26-10-231-002, 26-10-231-001, 26-10-230-011

## **EXHIBIT "B"**

### **BYLAWS OF THE ECHO RIDGE HOMEOWNERS ASSOCIATION**

#### **ARTICLE 1 NAME AND LOCATION**

**Section 1 .01 Name and Location.** The name of the association is Echo Ridge Homeowners Association, Inc. (the "Association"). The principal office of the corporation shall be located at 978 East Woodoak Lane, Salt Lake City, UT 84117, but meetings of Members and Board of Directors may be held at such places within the State of Utah, as may be designated by Board of Directors.

#### **ARTICLE 2 DEFINITIONS**

**Section 2.01 Definitions.** Except as otherwise provided herein or as may be required by context, all terms defined in the Declaration of Covenants, Conditions and Restrictions of Echo Ridge shall have such defined meanings when used in these Bylaws.

#### **ARTICLE 3 MEETINGS OF MEMBERS OF THE ASSOCIATION**

**Section 3.01 Annual Meeting.** The Association shall meet as often as it deems reasonably necessary but not less than annually at a convenient time and place.

**Section 3.02 Special Meetings.** Special meetings of the Association may be called at any time by the President, by a majority of the Members of the Board of Directors, or by a petition signed by twenty-five percent (25%) of the Lots.

**Section 3.03 Notice of Meetings.** Written notice of each meeting of the Association shall be given to each Owner by or at the direction of the Secretary or person authorized to call the meeting in a fair and reasonable manner at least fifteen (15) days before such meeting. Such notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting. Notice given in accordance with the provisions of the Revised Nonprofit Corporations Act shall be considered fair and reasonable notice. The Association may give notice by text message, e-mail, the Association website, or other reasonable electronic notice; provided, however an Owner may by making a written demand to the Association require written notice.

**Section 3.04 Quorum.** The Owners present at a meeting of the Association in person or by proxy shall constitute a quorum for any action except as otherwise expressly provided in the Declaration.



**Section 3.05 Proxies.** At all Association meetings, each Owner may vote in person or by proxy. All proxies shall be in writing and filed with the secretary. Every proxy shall be revocable and shall expire, if not previously revoked, eleven (11) months after the date it is given by the Owner.

**Section 3.06 Online Voting.** Online voting properly established and verified is allowed but not required.

#### **ARTICLE 4 BOARD OF DIRECTORS AND TERM OF OFFICE**

**Section 4.01 Number.** The affairs of the Association shall be managed by a Board of Directors comprised of three (3) natural persons. Each Director must be duly qualified and appointed or elected. The initial Directors are Christopher P. Gamvroulas, Brad Mackay and Kyle Honeycutt.

**Section 4.02 Replacement.** If a Director resigns or is otherwise unable or unwilling to serve, then the remaining Directors shall appoint a replacement to complete his term of office.

**Section 4.03 Term of Office.** Each Director shall serve a term of two (2) years.

**Section 4.04 Compensation.** No Member shall receive compensation for any service he may render to the Association as a member of the Board of Directors, although he may be reimbursed for his actual expenses incurred in the performance of his duties and may enter into an independent contract to provide other services. A Member may enter into a separate and independent contract with the Association to provide additional services for a fee.

**Section 4.05 Action Taken Without a Meeting.** The Board of Directors shall have the right to take any action in the absence of a meeting which it could take at a meeting by obtaining the written approval of all the Members. Any action so approved shall have the same effect as though taken at a meeting of the Board of Directors.

**Section 4.06 Voting.** Each Director shall have one (1) vote. Online voting properly established and verified is allowed but not required.

**Section 4.07 Notice.** Notice given in accordance with the provisions of the Revised Nonprofit Corporations Act shall be considered fair and reasonable notice. The Association may give notice by text message, e-mail, the Association website, or other reasonable electronic notice; provided, however an Owner may by making a written demand to the Association require written notice.

#### **ARTICLE 5 POWERS AND DUTIES OF THE BOARD OF DIRECTORS**

**Section 5.03 Powers.** The Association shall have all of the powers of a Utah non-profit corporation, subject only to such limitations upon the exercise of such powers as are expressly set

forth in the Articles, the Bylaws and this Declaration. The Association shall have the power to perform any and all lawful acts which may be necessary or proper for, or incidental to, the exercise of any of the express powers of the Association. Without in any way limiting the generality of the foregoing, the Association may act through its Board of Directors and shall specifically have the powers and duties set out in this Article V, including:

**Section 5.03.1 Assessments.** The power and duty to levy Assessments on the Owners, and to enforce payment of such Assessments in accordance with the Declaration.

**Section 5.03.2 Association Property.** The right to own and/or lease the Association Property and the duty to maintain and manage the Common Area and Facilities and improvements thereon. In particular the Association shall:

- a. Maintain and repair in an attractive, safe and functional condition the Common Area and Facilities;
- b. Pay all taxes and assessments levied upon the Common Area and Facilities and all taxes and assessments payable by the Association;
- c. Obtain any water, sewer, gas and electric services needed for the Common Area and Facilities; and
- d. Do each and every other thing reasonable and necessary to operate the Common Area and Facilities and the Association.

## **ARTICLE 6 OFFICERS AND THEIR DUTIES**

**Section 6.01 Enumeration of Officers.** The officers of the Association shall be a president and secretary, plus such other officers as the Board of Directors may from time to time by resolution create. The same individual may not hold the office of president and secretary at the same time. The officers need not be Members of the Board of Directors.

**Section 6.02 Election of Officers.** The Board of Directors shall elect or appoint officers at the first meeting of the Board of Directors during each calendar year.

**Section 6.03 Term.** Each officer of the Association shall hold office for one (1) year unless he shall sooner resign, or shall be removed or otherwise disqualified to serve.

**Section 6.04 Special Appointments.** The Board of Directors 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 of Directors may from time to time determine.

**Section 6.05 Resignation and Removal.** Any officer may be removed from office with or without cause by a majority vote of the Board of Directors. Any officer may resign at any time by giving written notice to the Board of Directors, the president or the secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

**Section 6.06 Vacancies.** A vacancy in any office may be filled by appointment by the Board of Directors. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

**Section 6.07 President.** The president shall (a) preside at all meetings of the Board of Directors, (b) see that orders and resolutions of the Board of Directors are carried out and (c) sign all contracts.

**Section 6.08 Secretary.** The secretary shall (a) record the votes and keep the minutes of all meetings and proceedings of the Board of Directors and of the Association, (b) keep the corporate seal of the Association and affix it on all papers requiring said seal, (c) serve notice of meetings of the Board of Directors and of the Association, (d) keep appropriate current record showing the Members of the Association together with their addresses and (e) perform such other duties as may be required by the Board of Directors.

## **ARTICLE 7 COMMITTEES**

**Section 7.01 Committees.** The Board of Directors may appoint such committees as deemed appropriate in carrying out its purpose.

## **ARTICLE 8 BOOKS AND RECORDS**

**Section 8.01 Books and Records.** The books and records shall be kept with detailed accounts of the receipts and expenditures affecting the Tract, and the administration of the Tract, specifying the maintenance, repair and any other expenses incurred. The books and records, including any invoices, receipts, bills, proposals, documents, financial statements, and vouchers accrediting the entries thereupon shall be available for examination by the Owners, their duly authorized agents or attorneys, during general business hours on working days at the times and in the manner that shall be set and announced by the Board of Directors for the general knowledge of the Owners. All books and records shall be kept in accordance with generally accepted accounting practices.

**Section 8.02 Signatures.** The Board of Directors shall determine who shall be required to sign checks, drafts, contracts, or other legally binding agreements.

**Section 8.03 Bookkeeping.** The accounting and financial statements for Association must be kept and prepared by either the property manager or an independent bookkeeper or accountant, who may

not be a member of the Board of Directors or an officer of the Association. A monthly profit and loss statement, balance sheet, and check register shall be sent or delivered by the bookkeeper or accountant to each member of the Board of Directors. The accountant or bookkeeper shall prepare and file all tax returns for the Association.

**Section 8.04 Audit.** Either a (a) majority vote of the Members of the Board of Directors or (b) majority vote of all of the Owners is necessary and sufficient to require either a Compilation Report, Reviewed Statement or Audited Statement of the financial books and records of the Association.

## ARTICLE 9 AMENDMENTS

**Section 9.01 Amendment to Bylaws.** These Bylaws may only be amended (a) unilaterally by the Successor Declarant until the expiration of the Period of Successor Declarant's Control or (b) the affirmative vote of a majority of the members of the Board of Directors, or (c) a majority of the Owners. In the event of a conflict between the decision of the Owners and the Board, the former shall in all respects govern and control.

**Section 9.02 Conflict Between Articles, Bylaws and Declaration.** In the case of any conflict between the Declaration and these Bylaws or Articles of Incorporation, the former shall in all respects govern and control.

## ARTICLE 10 MISCELLANEOUS

**Section 10.01 Miscellaneous.** The fiscal year of the Association shall begin on the first day of January and end on the 31st day of December of every year, except that the first fiscal year shall begin on the date of incorporation.

EXECUTED on the 20<sup>th</sup> day of ~~September~~<sup>February</sup>, 2014.

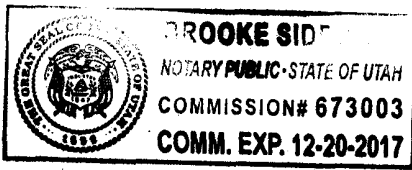
SUCCESSOR DECLARANT:  
IVORY DEVELOPMENT, LLC,  
a Utah limited liability company

By: \_\_\_\_\_

Name: Christopher P. Gamvroulas  
Title: President

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

On the 20 day of <sup>February</sup>~~September~~, 2014 personally appeared before me Christopher P. Gamvroulas, who by me being duly sworn, did say that he is the President of Ivory Development, LLC, a Utah limited liability company, and that the within and foregoing instrument was signed in behalf of said Company by authority, and said Christopher P. Gamvroulas duly acknowledged to me that said Company executed the same.



*Brooke Sidner*  
\_\_\_\_\_  
NOTARY PUBLIC

**EXHIBIT "C"**  
**WATER-WISE TECHNIQUES GUIDELINES**

**EXHIBIT "D"**  
**STREET TREE GUIDELINES**

1. The following Plant List identifies the kinds of Street Trees which may be planted. No substitutions are allowed without the express prior written consent of the Successor Declarant or Architectural Review Committee.

2. Approved Street Tree Plant List:

<u>COMMON NAME</u>	<u>BOTANICAL NAME</u>
Common Hackberry	Celtis occidentalis
American Basswood	Tilia Americana
Common Hackberry	Celtis occidentalis
Sycamore Maple	Acer pseudoplatanus
American Basswood	Tilia Americana
American Basswood	Tilia Americana
American Basswood	Tilia Americana
Chinkapin Oak	Quercus muehlenbergii
Sycamore Maple	Acer pseudoplatanus