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ADAM GARDINER
RECORDER, SALT LAKE COUNTY, UTAH
TRUONG PROPERTIES
1559 W 3860 S
MVC UT 84119
BY: CBA, DEPUTY - WI 73 P.

DECLARATION OF COVENANTS, CONDITIONS,
EASEMENTS AND RESTRICTIONS
OF
The Lofts on Redwood P.U.D.,

THIS DECLARATION of covenants, conditions and restrictions (the "Declaration") is made and executed this _____ day of October, 2018, by **Truong Properties, LLC**, a Utah limited liability company ("Declarant").

RECITALS

I. The Declarant holds title to certain real property located in **West Valley City, the County of Salt Lake**, State of Utah, which property is described in Exhibit "A," which is attached hereto and incorporated herein by this reference (the "Property").

II. Declarant desires to develop the **The Lofts on Redwood** (aka Cobalt Landing) Project in phases, as shown on the **Cobalt Landing Plan**, a reduced copy of which is attached hereto as Exhibit "B". In accordance with the Development Documents, the Project contains or will contain neighborhood areas and shall include townhomes, and public roadways, and other amenities that constitute Common Areas of the Project. Declarant intends to eventually develop, for residential use, consisting of **31 buildings with up to 3 townhomes in each building**. Declarant desires to develop the land as a residential community, **and expand the Project in additional phases**, and to insure therefore a uniform plan and scheme of development, and unto that end, the Declarant has adopted, imposed and subjected the property hereinafter described to certain covenants conditions, restrictions, easements, charges and liens (collectively, the "Covenants") for the following purposes:

(a) To insure uniformity in the development of the Lots (as hereinafter defined) in the Community (as hereinafter defined);

(b) To facilitate the sale by Declarant, its successors and assigns, of the land in the Community by reason of its ability to assure such purchases of uniformity;

(c) To make certain the Covenants shall apply uniformly to all Lots for the mutual advantage of the Declarant, the Owners and any Mortgagee (as such capitalized terms are defined herein) and to all those who may in the future claim title through any of the above; and

(d) To provide for the benefit of the Owners, the preservation of the value and amenities in the Community, and the maintenance of certain reserved common areas, including, but not limited to charges and liens, as herein below set forth, and easements, public roadways and other amenities that constitute Common Areas of the Project, and for the creation of an association to be delegated and assigned the powers of maintaining and administering the Common Area (as hereinafter defined), and enforcing all applicable covenants and restrictions, and collecting and disbursing the assessments and charges

hereinafter created; which association shall be incorporated under the laws of the State of Utah, as a nonprofit corporation, for the purpose of exercising the functions as aforesaid.

III. Each Owner shall receive fee title, to his or her Unit, an undivided proportional interest in the Common Areas, based upon the square footage, of said Owner's Unit to the total square footage of all Units, and one Homeowner's Association Membership in the Association as provided herein.

NOW, THEREFORE, Declarant hereby declares, covenants and agrees as follows:

Article 1 DEFINITIONS

Each of the Recitals I through III are incorporated into and made apart of this Declaration for all purposes. Unless the context clearly indicates otherwise, the following capitalized words, phrases or terms used in this Neighborhood Declaration shall have the meanings set forth in this Article 1. (Certain terms not defined in this section are defined elsewhere in this Declaration.)

1.1 "Adjoining Owner" means the immediately adjoining Owner that owns a Unit with a common Demising Wall touching the contiguous, neighboring Unit of a different Owner.

1.2 "Annual Assessments" means the Assessments levied pursuant to Section 6.2.

1.3 "Articles" means the Articles of Incorporation of **The Lofts on Redwood** Owner's Association, Inc. (the "Association"), as amended from time to time.

1.4 "Assessable Property" means each Unit, except for Exempt Property.

1.5 "Assessment" means an Annual Assessment and/or a Special Assessment.

1.6 "Assessment Lien" means the lien created and imposed by Section 6.8.

1.7 "Association Member" means any Person who is a member of the Neighborhood Association as provided in Article 5.

1.8 "Association Membership" means a membership in the Association and the rights granted to the Association Members, including Declarant, pursuant to Article 5, to participate in the Association.

1.9 "Association Rules" means the rules and regulations adopted by the Board pursuant to Section 5.3, as amended from time to time.

1.10 "Board" means the Board of Trustees or Directors of the Association.

1.11 "Bylaws" means the bylaws of the Association, as amended, from time to time.

1.12 "Builder" means any person or entity other than Declarant, which, in the ordinary course of such person's business, constructs a dwelling on a Lot and sells or leases it to another person to occupy as such person's residence.

1.13 "Building" means a structure with one or more connected townhomes.

1.14 "Common Areas" mean and refer to all portions of the Property owned by the Association for the common use and enjoyment of the Owners, and shall include:

1.14.1 Roofs of each building;

1.14.2 Such community facilities as may be provided for in the declaration;

1.14.3 All other parts of the property necessary or convenient to its existence, maintenance, and safety, or normally in common use.

1.14.4 All installation, equipment, and lines, if any, now or hereafter located on, over, or under the Common Areas and connected with or related to the furnishing of subdivision utility services such as water, sewage disposal, electricity, and telephone, and which are not owned by or dedicated to a governmental or quasi-governmental authority or public or private utility company, and which are not reserved by Declarant.

1.14.5 All private roads which are not owned by or dedicated to a governmental or quasi-governmental authority, designated as such on the Plat or as may be added from time to time upon written approval of the Board of Trustees.

1.15 "Common Assessment" means the charge against each Member representing the Member's portion of the Common Expenses.

1.15.1 All sums lawfully assessed against a Unit Owner;

1.15.2 Expenses of management, administration, maintenance, repair, or replacement of common areas and facilities;

1.15.3 Expenses agreed upon as common expenses by the association of Unit Owners; and

1.15.4 Expenses declared to be common expenses by this Declaration or the Association's bylaws.

1.16 "Common Expenses" means expenditures made by, or financial liabilities of, the Association together with any allocations to reserves as further described in 6.2.1. Common Expenses.

1.17 "Community" means and refers to all of the land hereby made subject to this Declaration by an instruments in writing duly executed and recorded among the Recorder's Office and any Additional Property (as such term is hereinafter defined) that may hereafter expressly be made subject to this Declaration by an instrument in writing, duly executed and recorded in the Office of the Salt Lake County Recorder.

1.18 "Declarant" means **Truong Properties, LLC**, a Utah limited liability company, its successors, and any Person to whom it may expressly assign any or all of its rights under this Declaration.

1.19 Declarant Affiliate" means any Person directly or indirectly controlling, controlled by or under common control with Declarant, and shall include, without limitation, any general or limited partnership, limited liability company, limited liability partnership or corporation in which Declarant (or another Declarant Affiliate) is a general partner, managing member or controlling shareholder.

1.20 "Demising Wall" means a wall that forms part of a Dwelling Unit and is located on or at a boundary line between two adjoining Dwelling Units, that separates said adjoining Dwelling Units, and is used or is intended to be used by the Owners of both properties.

1.21 "Dwelling Unit" means each single family townhome constructed, together with its proportional share, based upon the square footage of said Owner's townhome to the total square footage of all townhomes, of the Owner's interest in the Common Areas and facilities associated with each such townhome and/or Unit.

1.22 "Exempt Property" means:

1.22.1 All land and improvements owned by, or dedicated to and accepted by, the United States, the State of Utah, Salt Lake County or any Municipal Authority having jurisdiction, or any political subdivision of any of them, for as long as such entity or political subdivision is the owner thereof or for as long as said dedication remains effective;

1.22.2 All Common Areas; and

1.22.3 Each other property in the Project while owned by Declarant, a Declarant Affiliate, or other Owner of a Dwelling Unit, until there is a vote, by a majority of the members of the Board, to commence charging the Assessments authorized by this Declaration.

1.23 "Improvement(s)" means any improvement now or hereafter constructed at the Project and includes anything which is a structure and appurtenances thereto of every type and kind, including but not limited to any (a) Dwelling Unit building, guest house, screening wall, other accessory building, fence or wall; (h) any walkway, garage, road, driveway, or parking area; (c) any mailbox, sign, shed, covered patio, stairs, deck, fountain, artistic work, craft work, figurine, ornamentation or embellishment of any type or kind (whether or not affixed to a structure or permanently attached to a Unit); (d) basketball court, radio or television antenna or receiving dish; (e) any paving, exterior lights, curbing, trees, shrubs, hedges, grass, windbreak or other landscaping improvements of every type and kind; (f) any excavation, fill, retaining wall or other thing or device which affects the natural flow of surface water or the flow of water in a drainage channel, and related fixtures and equipment and (g) any other structure of any kind or nature.

1.24 "Lessee" means the lessee or tenant under a lease, oral or written, of any Dwelling Unit (or part thereof), including an assignee of the lessee's or tenant's interest under a lease.

1.25 "Limited Common Area(s)" means a portion of the Common Areas designated by this Declaration, or a Supplemental Declaration, as may be shown on the Plat, for the exclusive use of one or more, but fewer than all of the Owners.

1.26 "Lot and/or Lots" means and refers to those portions of the Property that are subdivided parcels of land shown and defined as lots or plots of ground (exclusive of the Common Area) and designated by numerals on the Plat, on which a Dwelling Unit is proposed to be constructed.

1.27 "Mortgage" means a deed of trust or a mortgage Recorded against a Dwelling Unit or any part thereof or interest therein. A "First Mortgage" means a Mortgage having priority as to all other Mortgages encumbering a Dwelling Unit, or any part thereof or interest therein.

1.28 "Mortgagee" means a beneficiary under a deed of trust, or a mortgagee under a Mortgage Recorded against a Dwelling Unit. A "First Mortgagee" means any Person or entity holding a First Mortgage including any insurer or guarantor of a First Mortgage.

1.29 "Municipal Authority" means any applicable governmental entity or municipality which has jurisdiction over all or some part of the Project including without limitation Salt Lake County, Utah.

1.30 "Occupant" means any Person other than an Owner who has actual use, possession or control of any Dwelling Unit or a portion thereof, and shall include, without limitation, businesses or residents who occupy a Dwelling Unit.

1.31 "Owner" means the Person or Persons who individually or collectively own fee title to a Dwelling Unit, including Declarant. Owner shall not include Persons who hold an interest in a Dwelling Unit merely as security for the performance of an obligation, nor purchasers of a Dwelling Unit under installment purchase contracts.

1.32 **"Person"** means a natural person, corporation business trust, estate, trust, partnership, association, limited liability company, limited liability partnership, joint venture, government, governmental subdivision or agency, or other legal or commercial entity.

1.33 **"Plat"** means that certain planned community plat entitled "**Cobalt Landing**", duly recorded, as the same may be amended from time to time, and which is incorporated herein by this reference.

1.34 **"Project"** means such term as described and set forth in Recital II.

1.35 **"Project Documents"** means the Plat, this Declaration, the **Cobalt Landing Design Guidelines**, the Articles of **The Lofts on Redwood Homeowners Association, Inc.** ("the Association"), the Association Bylaws, a copy of which are attached to this Declaration as Exhibit "C" and are incorporated herein by this reference, the Association Rules, as each document may be amended from time to time.

1.36 **"Property"** means such term as described and set forth in Recital I. The term "Property" shall also include any of the Additional Land, subject to the expansion of the Project, that is made subject to this Declaration, by the recordation of a Supplemental Declaration and an amendment to the Plat, which inclusion shall be effective from and after the date of recordation of such Supplemental Declaration and amended Plat.

1.37 **"Record," "Recording," "Recorded" and "Recordation"** means placing or having placed an instrument of public record in the official records of Salt Lake County, Utah.

1.38 **"Residential Tract(s)"** means a portion of the Project intended for independent ownership and residential use and designated as such on the Plat and, where the context indicates or requires, shall include any Dwelling Unit, building, structure or other Improvements situated on said Residential Tract.

1.39 **"Special Assessment"** means any Assessment levied pursuant to Section 6.4.

1.40 **"Supplemental Declaration"** shall mean any recorded declaration, except for this Declaration covering Units on the Property recorded by Declarant, to subject all or a portion of the Additional Land to this Declaration as further described in Section 2.6 below, as such Supplemental Declaration may be amended from time to time.

1.41 **"The Lofts on Redwood Design Guidelines"** means the written review standards promulgated by the Declarant pursuant to this Declaration, or the **The Lofts on Redwood Review Committee** if created by Declarant pursuant to Section 3.4 below.

1.42 **"The Lofts on Redwood Design Review Committee"** means the design review committee that may be created pursuant to this Declaration.

1.43 "Unit" means a separate part of the property intended for any type of independent use, i.e. a Dwelling Unit, which may include one or more rooms or spaces located on one or more floors in a building.

1.44 "Visible From Neighboring Property" means, with respect to an object, that the object is or would be visible to a six-foot tall person standing at ground level on any part of neighboring property, except where the object is visible solely through a wrought iron fence and would not be visible if the wrought iron fence were a solid fence.

Article 2 DECLARANT'S RIGHTS AND OWNERS' OBLIGATIONS

2.1 Property Subject to this Declaration. This Declaration is being Recorded to establish a general plan for the development and use of the Project in order to protect and enhance the value and desirability of the Project. All of the property within the Project shall be held, sold and conveyed subject to this Declaration, including any of the Additional Land hereafter made subject to this Declaration by the recordation of a Supplemental Declaration. By acceptance of a deed or by acquiring any interest in any of the property subject to this Declaration, each Person, for himself, herself or itself, and his, her or its heirs, personal representatives, successors, transferees and assigns, binds himself, herself or itself, and his, her or its heirs, personal representatives, successors, transferees and assigns, to all of the provisions, restrictions, covenants, conditions, rules and regulations now or hereafter imposed by this Declaration. In addition, each such Person by so doing acknowledges that this Declaration sets forth a general scheme for the development and use of the Property and evidences his, her or its agreement that all the restrictions, condition covenants, rules and regulations contained in this Declaration shall run with the land and be binding on all subsequent and future Owners, grantees, purchasers, assignees, Lessees and transferees thereof. Additionally each such Person fully understands and acknowledges that this Declaration shall be mutually beneficial, prohibitive and enforceable by the Association and all Owners.

2.2 Utah Community Association Act. Declarant and each Owner hereby agree and understand that the Property is by execution and recording of this Declaration, being submitted to the provisions of the Utah Association Act, §§ 57-8a-101, *et seq.*, Utah Code Ann. (the "Act"). This Declaration does constitute a declaration as provided for in the Act and the provisions of the Act shall be applicable to the Property or any portion thereof; including without limitation all or a portion of the Additional Land made subject to this Declaration by the recordation of one or more Supplemental Declarations.

2.3 Description of Project. The Project shall consist of a residential townhome project. **The Lofts on Redwood**, that portion of the Project that Declarant is currently developing is more particularly described in Exhibit "B". Declarant reserves the right to expand the Project and develop additional phases of the Project with the Project's boundaries as described in Exhibit "A". Declarant reserves the right to adjust the location of each Building to facilitate proper planning in the sole and exclusive discretion of the Declarant, subject to the terms

and provisions of Section 2.13, unless otherwise determined by Declarant in its sole and exclusive discretion. Declarant intends to and shall have the right to construct all Dwelling Units at the Project. A purchaser, transferee or an Owner of a Dwelling Unit shall not have the right to independently construct a Dwelling Unit thereon, or to approve or supervise the construction of any Dwelling Unit.

2.4 Agent for Service of Process: The name and business address of the person, who is a resident of the State of Utah, authorized to receive process on behalf of the Project is as follows:

Russell J. Platt
1559 West 3860 South
West Valley UT 84119

2.5 The Association. The Association shall maintain the Common Areas and all Improvements thereon, in a safe, sanitary and attractive condition. No part of the Dwelling Units shall constitute Common Areas, and the Association shall have no obligation to repair, replace and maintain any such Unit in the Project. The Association shall assess and collect fees from the Association Members, in accordance with the provisions hereof and the Bylaws.

2.6 Density. Pursuant to the Plat filed and recorded with the Salt Lake County Recorder, Declarant shall construct, **up to 31 Buildings with up to 3 Dwelling Units in each Building.**

2.7 Incidents of Ownership. Every Dwelling Unit shall have appurtenant to it one Association Membership in the Association and a nonexclusive easement for each Owner for use, enjoyment, ingress and egress over the Common Areas, subject to such restrictions and limitations as are contained in the Project Documents, and subject to other reasonable regulation by the Association. Each Association Membership shall be appurtenant to and inseparable from ownership of the Member's Unit. Any sale, conveyance, hypothecation, encumbrance or other transfer of a Unit shall automatically transfer the Association Membership to the same extent, notwithstanding, any term or provision to the contrary in the documents affecting such transfer.

2.8 Owner's Obligation to Maintain the Owner's Dwelling Unit. Except where otherwise expressly provided for herein, each Owner shall maintain his, her or its Dwelling Unit, and the Limited Common Area assigned to said Dwelling Unit, in a safe, sanitary and attractive condition. In the event that an Owner fails to maintain his, her or its Dwelling Unit, and/or Limited Common Area, and/or such other Improvements as provided herein, in a manner which the Board reasonably deems necessary to preserve the appearance and/or value of the Project, the Board may notify the Owner of the work required and demand that it be done within a reasonable and specified period. In the event that the Owner fails to carry out such maintenance within said period, the Board shall have the right, but not the obligation, to enter upon the Dwelling Unit, and/or Limited Common Area, to cause such work to be done to the Dwelling Unit, Limited Common Area, or Improvement, and individually charge the

cost thereof to such Owner. Notwithstanding the foregoing, in the event of an emergency arising out of the failure of an Owner to maintain his, her or its Dwelling Unit, Limited Common Area, or Improvement, the Board shall have the right to immediately enter upon said Dwelling Unit, and/or Limited Common Area, to abate the emergency and individually charge the cost thereof to such Owner. Owner, in complying with the requirements of this paragraph, shall do no work and make no alterations or changes which would jeopardize the soundness or safety of any Dwelling Unit, and/or Limited Common Area, reduce their value, or impair any easement or hereditament, without, in every such case, the written consent of the Board of Trustees being first obtained.

2.9 Responsibility for Common Areas Damage. The cost of repair or replacement of any portion of the Common Areas resulting from the willful or negligent act of an Owner, Occupant, Lessees, tenants, family, guests or invitees shall be, in addition to the party at fault, the joint responsibility of such Owner. The Association shall cause such repairs and replacements to be made and the cost thereof may be levied as an individual charge against such Owner.

2.10 Declarant's Disclaimer of Representations. Nothing which may be represented to a purchaser by real estate brokers or salespersons representing the Declarant or any Declarant Affiliate shall be deemed to create any covenants or restrictions, implied or express, with respect to the use of any property subject to this Neighborhood Declaration.

2.11 Security. The Neighborhood Association may, but shall not be obligated to, maintain or support certain activities within the Project designed to make the Project safer than it otherwise might be. NEITHER THE ASSOCIATION AND ITS BOARD, THE DECLARANT, THE LOFTS ON REDWOOD DESIGN REVIEW COMMITTEE, (COLLECTIVELY, THE "PROJECT'S GOVERNING BODIES") SHALL IN ANY WAY BE CONSIDERED INSURERS OR GUARANTORS OF SECURITY WITHIN THE PROJECT. THE PROJECT'S GOVERNING BODIES SHALL NOT BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF FAILURE TO PROVIDE ADEQUATE SECURITY OR INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN. ALL OWNERS, OCCUPANTS, TENANTS, GUESTS AND INVITEES OF ANY OWNER OR OCCUPANT, AS APPLICABLE, ACKNOWLEDGE THAT THE PROJECT'S GOVERNING BODIES DO NOT REPRESENT OR WARRANT THAT ANY FIRE PROTECTION SYSTEM OR BURGLAR ALARM SYSTEM DESIGNATED BY OR INSTALLED ACCORDING TO THE THE LOFTS ON REDWOOD DESIGN GUIDELINES MAY NOT BE COMPROMISED OR CIRCUMVENTED, THAT ANY FIRE PROTECTION OR BURGLAR ALARM SYSTEMS WILL PREVENT LOSS BY FIRE, SMOKE, BURGLARY, THEFT, HOLDUP, OR OTHERWISE, NOR THAT FIRE PROTECTION OR BURGLARY ALARM SYSTEMS WILL IN ALL CASES PROVIDE THE DETECTION OR PROTECTION FOR WHICH THE SYSTEM IS DESIGNED OR INTENDED. EACH OWNER, OCCUPANT, TENANT, GUEST OR INVITEE OF AN OWNER OR OCCUPANT, AS APPLICABLE, ACKNOWLEDGES AND UNDERSTANDS THAT THE PROJECT'S GOVERNING BODIES ARE NOT INSURERS AND THAT EACH OWNER, OCCUPANT, TENANT, GUEST AND INVITEE ASSUMES ALL RISKS

FOR LOSS OR DAMAGE TO PERSONS, OR DWELLING UNITS, TO IMPROVEMENTS, AND TO THE CONTENTS OF DWELLING UNIT, AND IMPROVEMENTS, AND FURTHER ACKNOWLEDGES THAT THE PROJECT'S GOVERNING BODIES HAVE NOT MADE REPRESENTATIONS OR WARRANTIES, NOR HAS ANY OWNER, OCCUPANT, TENANT, GUEST OR INVITEE RELIED UPON ANY REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, RELATIVE TO ANY FIRE AND/OR BURGLAR ALARM SYSTEMS RECOMMENDED OR INSTALLED OR ANY SECURITY MEASURES UNDERTAKEN WITHIN THE PROJECT.

2.12 Readjustment of Residential Tract Line Boundaries. Declarant hereby reserves for itself; a Declarant Affiliate and Declarant's successors and assigns, the right to effectuate minor realignment and adjustment of a **The Lofts on Redwood** boundary lines for purposes of proper configuration and final engineering of the Project; provided that any such realignment and adjustment does not affect any existing Building, Dwelling Unit or Improvement (other than landscaping). The authority to realign and adjust such boundary lines shall be exclusively reserved to the Declarant, Declarant Affiliate, and Declarant's successors or assigns, in their sole and reasonable discretion, subject to the other provisions of this Section 2.12. All Owners specifically acknowledge and agree that they shall cooperate with Declarant to effectuate such minor realignment and adjustment for the purposes of proper configuration and final engineering of any Building in relationship to the development of the Project. Further, all Owners acknowledge and agree that no amendment to this Declaration or the Plat shall be required to effectuate any such boundary line adjustments so long as such adjustments are made pursuant to §17-27-808(7), Utah Code Ann., as amended. More particularly, boundary line adjustments between Buildings may be executed upon the approval of the appropriate Municipal Authority and upon recordation of an appropriate deed if:

- 2.12.1 No new Building or Improvement results from the boundary line adjustment and exchange of title;
- 2.12.2 The appropriate Municipal Authority and, adjoining property Owners of the affected Building consent to the boundary line adjustment (such Owners' consent to be granted as described above);
- 2.12.3 The adjustment does not result in violation of applicable Municipal Authority zoning requirements; and
- 2.12.4 The appropriate Municipal Authority Records a notice of approval in accordance with § 17-27-808(7)(c), Utah Code Ann.

The forgoing Sections 2.12.1, 2.12.2, 2.12.3, and 2.12.4 are subject to automatic modification to be consistent with any amendments or changes to § 17-27-808(7), Utah Code Ann.

2.13 Development Plan. Notwithstanding any other provision of this Declaration to the contrary, Declarant, without obtaining the consent of any other Owner or Person, shall have the right to make changes or modifications to its plan of development with respect to any Property owned by the Declarant in any way which the Declarant desires including, but not limited to, changing all or any portion of the Property owned by the Declarant or changing the nature or extent of the uses to which such Property may be devoted.

Article 3

LAND USES, PERMITTED USES AND RESTRICTIONS

3.1 Land Uses. The purposes for which property within the Project may be used shall be for residential uses consistent with this Declaration, as well as ancillary, complementary or subsidiary uses such as (without limitation), open space, Common Areas, Limited Common Areas and the like.

3.2 Model Dwelling Units. Any provisions of this Declaration which prohibit non-residential use of a Dwelling Unit and regulate parking of vehicles shall not prohibit the construction and maintenance of model Dwelling Units of any kind (including, without limitation, any used in whole or in part as sales offices (collectively, "Models") by Persons engaged in the construction of Dwelling Units in the Project, or parking incidental to the visiting of such Models, so long as the construction, operation and maintenance of such Models and parking otherwise comply with all of the provisions of this Declaration. The Developer may also permit areas around the Dwelling Units, and other areas to be used for parking in connection with the showing of Models. Any Dwelling Units or other structures constructed as Models shall cease to be used as Models at any time the Owner thereof is not actively engaged in the construction and sale of Dwelling Units in the Project, and no Dwelling Unit or other structure shall be used as a Model for the sale of Dwelling Units, or other structures, not located within the Project. Neither the provisions of this Section, or this Declaration, shall restrict or prohibit the right of the Declarant or a Declarant Affiliate to construct, operate and maintain Models within the Project.

3.3 Use Restrictions. Each Owner agrees, understands and acknowledges that his, her or its Dwelling Unit is subject to certain use restrictions that may limit such Owner's use of Owner's Dwelling Unit, and ability to construct various Improvements thereon, as specifically described in the Project Documents. Furthermore, the following restrictions are adopted or restated as restrictions on use imposed by authority of this Declaration:

3.3.1 Zoning Regulations. No lands within the Property shall ever be occupied or used by or for any building or purpose or in any manner which is contrary to the Project Documents, the zoning regulations applicable thereto validly in force from to time, or the other Governing Documents.

3.3.2 Architectural Control. All Improvements (whether temporary or permanent), alterations, repair's, or other work which in any way alters the

exterior appearance of any Dwelling Unit, or Improvement, must comply with the **The Lofts on Redwood Design Guidelines** and are subject to the prior written approval of Declarant or the **The Lofts on Redwood Design Review Committee**. No changes or deviations in or from the plans and specifications once approved by Declarant or the Design Review Committee shall be made without the prior written approval of Declarant or the Design Review Committee.

- 3.3.3 Uses.** The Dwelling Unit areas within the Project shall be used exclusively for residential living purposes. No portions of the Project shall ever be occupied or used for any commercial or business purposes; provided, however, that nothing in this Section 3.3.3 shall be deemed to prevent (a) Declarant or its duly authorized agent from using any Dwelling Unit owned by Declarant or Declarant Affiliate as a sales model, or (b) any Owner or the Owner's duly authorized agent from renting or leasing said Owner's Dwelling Unit for use as overnight accommodations, provided that said use is not contrary to the Project Documents, the zoning regulations applicable thereto validly in force from time to time, or the other Governing Documents.
- 3.3.4 Restriction of Signs.** No signs or advertising devices, including, without limitation, commercial, political, informational or directional signs or devices, shall be erected or maintained on any of the Common Areas, any Building and/or in a Dwelling Unit, except signs approved in writing by Declarant or the **The Lofts on Redwood Review Committee** in accordance with the **The Lofts on Redwood Guidelines** as to size, materials, color and location, or except: (a) to advise of rules and regulations; (b) to caution or warn of danger; (c) as required by a Municipal Authority in its approval of subsequent developments; and (d) as required by law. Any approved signs shall be located as approved by Declarant or the **The Lofts on Redwood Design Review Committee**. Declarant or the **The Lofts on Redwood Design Review Committee** may develop comprehensive sign regulations.
- 3.3.5 Restrictions on Animals.** No animals, livestock, or poultry of any kind, including pigeons, shall be raised, bred or kept on any Lot, except that dogs, cats or any household pets, may be kept, provided that they are not kept, bred or maintained for any commercial purpose, and provided that they are kept so as to avoid becoming a nuisance to the neighborhood or to any adjoining property owners, and do not roam unattended on the Property. Pets shall be registered, licensed and inoculated as required by law. There shall not be more than three (3) pets per Lot or Unit. Owners shall be responsible for the immediate clean up and removal of their pets' waste from any other Lot and Common Area. Declarant during the Declarant Control Period, and thereafter the Board, in its sole discretion,

shall have the right to revoke such authorization at any time in its subjective discretion, and shall have the power to require any Owner or guest to remove any animal or other pet belonging to it which is not disciplined or which constitutes an undue annoyance or a danger to other Owners, their guests, or others.

- 3.3.6 Restrictions on Roof Decks.** No bath, pool or spa of any kind shall be placed, maintained or utilized upon any roof deck of any Lot, Dwelling or Unit within the Property.
- 3.3.7 Service Yards.** All equipment, related to a Common Area, or Dwelling Unit, shall be kept screened by approved planting or fencing, so as to conceal them from the view of neighboring lots or units, access roads, and areas surrounding the Property. Declarant or the **The Lofts on Redwood Design Review Committee**, in accordance with any applicable provision of the **The Lofts on Redwood Committee Guidelines**, shall approve the service yards in advance.
- 3.3.8 Underground Utility Lines.** All new water, gas, electrical, telephone, and other permanent utility lines within the limits of the Property must be buried underground and may not be exposed above the surface of the ground. Notwithstanding the foregoing, certain ancillary utility improvements such as meters, electrical boxes, and service facilities, may be constructed above ground as Declarant and the appropriate utility service provider may reasonably determine.
- 3.3.9 Maintenance of Property.** All Dwelling Units, and Improvements shall be kept and maintained by the Association, or Owner thereof; as the case may be, in clean, safe, attractive and slightly condition, and in good repair.
- 3.3.10 No Noxious or Offensive Activity.** No noxious or offensive activity shall be carried on in or upon any Dwelling Unit, or Common Area, nor shall anything be done or placed in or upon any Dwelling Unit, or Common Area, that is or may become a nuisance or cause significant embarrassment, disturbance or annoyance to others.
- 3.3.11 No Hazardous Activities.** No activities shall be conducted in or upon any Dwelling Unit, or Common Area, that are or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearms shall be discharged upon the Property and no open fires shall be lighted or permitted on the Property except in a contained barbecue unit while attended and in use for cooking purposes, or within a safe and well-designed interior fireplace.

- 3.3.12 No Unsightliness.** No unsightliness shall be permitted upon any Lot or Property. Without limiting the generality of the foregoing, (a) any unsightly structures, facilities, equipment, tools, vehicles, other than automobiles, objects, and conditions, shall be screened from view, except equipment and tools when in actual use for construction, maintenance or repairs which may be parked in designated areas subject to any rules or regulations promulgated by the Board regarding the same; (b) no trailers, mobile homes, tractors, truck campers, or trucks other than pickup truck, shall be kept or permitted to remain upon a Lot or the Property; (c) no vehicle, boat or equipment shall be constructed, reconstructed, repaired or abandoned upon a Lot or the Property; (d) no lumber, grass, shrub or tree clippings, plant waste, metals, bulk materials, or scrap shall be kept, stored or allowed to accumulate on a Lot or the Property, except in approved service yards meeting the requirements of Section 3.3.6; (e) refuse, garbage and trash shall be placed and kept at all times in a covered container and such container shall be kept within an enclosed structure or appropriately screened from view; and (f) hanging, drying or airing of clothing or household fabrics shall not be permitted on the Property.
- 3.3.13 No Annoying Lights, Sounds or Odors.** No light shall be emitted from any Dwelling Unit, or Common Area, which is unreasonably bright or causes unreasonable glare or does not comply with the **The Lofts on Redwood Design Committee Guidelines**; no sound shall be emitted from any Dwelling Unit or Common Area which is unreasonably loud or annoying including but without limitation, speakers, horns, whistles, bells or other sound devices, except security and fire alarm devices used exclusively to protect the Property or Improvements thereon; and no odors shall be emitted from any Dwelling Unit or Common Area which are noxious or offensive to others.
- 3.3.13 Neighborhood Rules.** No Member or Owner shall violate the Association's Rules adopted from time to time by a majority vote of the Board of the Association.
- 3.3.14 Parking.** Parking of vehicles shall be allowed only in parking areas approved by Declarant or the **The Lofts on Redwood Design Review Committee**.
- 3.3.15 Antennas and Satellite Dishes.** Except as otherwise permitted by law, antennas and satellite dishes are prohibited at the Project, unless Declarant or the **The Lofts on Redwood Design Review Committee** specifically approves such antennas or satellite dishes. Approved antennas and dishes shall be sited so that they cannot be seen from the street. Nothing in this Section shall be deemed to prohibit Declarant, or a Declarant Affiliate,

from installing and maintaining flagpoles on, at or adjacent to Models within the Project as provided for in Section 3.2 above.

- 3.3.16 No Fences.** No fences, walls, or other barriers shall be permitted for the purpose of enclosing or demarcating any property line boundaries without the prior written approval of Declarant or the **The Lofts on Redwood Design Review Committee**, which approval may be withheld in the Declarant's or the **The Lofts on Redwood Design Review Committee's** sole and exclusive discretion.
- 3.3.17 Temporary Occupancy and Temporary Buildings.** No temporary Improvements or structures of any kind shall be used at any time for a residence, either temporary or permanent. However, Declarant or the **The Lofts on Redwood Design Review Committee** may approve temporary Improvements for use during the construction of any structure on any Dwelling Unit or Improvement, but such temporary Improvements shall be removed immediately after the completion of construction.
- 3.3.18 Diseases and Insects.** No Owner, resident or occupant shall permit any thing or condition to exist in or upon any Dwelling Unit or Common Area which shall induce, breed or harbor infectious plant diseases or noxious insects.
- 3.3.19 Trash Containers and Collection.** No garbage or trash shall be placed or kept in or upon any Dwelling Unit, or Common Area, except in covered containers of a type, size and style which are approved by Declarant or the **The Lofts on Redwood Design Review Committee**, or are required by the Municipal Authority with jurisdiction over the Project. In no event shall such containers be maintained so as to be visible from neighboring Dwelling Units or Common Areas, except to make the same available for collection.
- 3.3.20 Declarant's Exemption.** Nothing contained in this Declaration, or in any Project Documents, shall be construed to prevent the construction, installation or maintenance by Declarant, any Declarant Affiliate, or any agents or contractors thereof, during the period of development, construction and sales of the property, or Improvements deemed to be necessary or convenient by the Declarant, in its sole and exclusive discretion, for the development or sale of the Property.
- 3.3.21 Parking of Vehicles.** Except as otherwise approved by the **The Lofts on Redwood Design Review Committee**, no automobile, commercial vehicle, truck, mobile home or trailer (either with or without wheels), camper, camper trailer or any other transportation device of any kind, shall be

stored outside or parked on a Lot except within the areas designated by the Board. No Owner or Occupant shall repair or restore any vehicle of any kind upon any portion of the Project, except for emergency repairs, and then only to the extent necessary to enable movement thereof to a proper repair facility.

3.3.22 Clotheslines, Tanks, Woodpiles, Etc. No clotheslines, above-ground tanks, woodpiles, and other similar items shall be erected, placed or maintained on any Lot within the Project.

3.3.23 Utility Service. No lines, wires or other devices for the communication or transmission of electric current or power, including telephone, television and radio signals, and cable information highways, shall be erected, placed or maintained anywhere in or upon the Project unless the same shall be contained in conduits or cables installed and maintained underground or concealed in, under, or on Improvements, as approved by the Declarant during the Declarant Control Period (as such term is defined in the Project Documents), or thereafter, the **The Lofts on Redwood Design Review Committee**, except for boxes on the ground for electrical or communication connections, junctions, transformers and other apparatus customarily used in connection with such underground lines, wires and other devices.

3.4 The Lofts on Redwood Design Review Committee. Declarant hereby grants to the Association the right, without obligation, to organize and create the **The Lofts on Redwood Design Review Committee**, to first review, study and either approve, reject or request submittals of proposed developments and improvements to a Dwelling Unit, all in compliance with this Declaration, and as further set forth in the rules and regulations of the **The Lofts on Redwood Design Review Committee**, and the **The Lofts on Redwood Design Review Committee Guidelines**, prior to any review or approval by a Municipal Authority.

If created, the **The Lofts on Redwood Design Review Committee** shall have the right, but not the obligation, to promulgate, enforce and interpret the **The Lofts on Redwood Design Review Committee Guidelines**. The **The Lofts on Redwood Design Review Committee** shall be composed of as many in number, and those named individuals or entities, as the Neighborhood Association may determine, in its sole and exclusive discretion. Members of the **The Lofts on Redwood Design Review Committee** need not be Owners. Further, the **The Lofts on Redwood Design Review Committee** shall have authority to adopt and design review fees.

3.5 Architectural Control. In addition to those certain approvals set forth in this Declaration, Dwelling Units and Improvements constructed within the Project shall comply with the **The Lofts on Redwood Design Review Committee's Guidelines**. The Board and

all purchasers, transferees and Owners shall not construct, install, remove, add, alter, repair, change, devegetate, excavate, grade, plant, revegetate, or otherwise do any work, or cause any work to be done, which in any way alters the appearance (including but without limitation, the exterior color scheme) of any Dwelling Unit or Improvements located thereon, without the prior written approval of the **The Lofts on Redwood Design Review Committee**, which approval may be withheld for any reason in the Committee's sole and exclusive discretion. The Association and any Owner or other Person desiring approval of the **The Lofts on Redwood Design Review Committee** for the construction, installation, addition, alteration, repair, change or replacement of any Dwelling Unit, or any Improvement located thereon, which would alter the exterior appearance of a Dwelling Unit or other portion of the Project, or any Improvements located thereon, shall submit to the **The Lofts on Redwood Design Review Committee** a written request for approval specifying in detail the nature and extent of the construction, installation, addition, alteration, repair, change, replacement or other work which the Board or such Owner or other Person desires to perform. The **The Lofts on Redwood Design Review Committee** shall review the Board's, Owner's or other Person's written request according to the procedures outlined in this Declaration and by the Board. The Owner or other Person shall pay the design review fees promulgated thereunder. Notwithstanding the foregoing, the **The Lofts on Redwood Design Review Committee** shall have the right, but not the obligation, to waive any and all design review fees related to any request made by the Board.

3.6 Architectural Review Fee. The **The Lofts on Redwood Design Review Committee** shall have the right to charge a reasonable fee for reviewing requests for approval of any construction, installation, alteration, addition, repair, change, replacement or other work pursuant to this Declaration, which fee shall be payable at the time the application for approval is submitted to the Committee. Such fee, if established and charged by the **The Lofts on Redwood Design Review Committee**, shall be set at such reasonable level as the Committee may estimate will be necessary to defray the reasonable costs and expenses of the Committee in reviewing and evaluating any such request or application, and may include, if the Committee deems it reasonably necessary under the circumstances, an amount to cover the reasonable costs of professional consultation to the Committee by an architect, engineer or attorney.

3.7 Municipal Authority Approval. The approval required of the **The Lofts on Redwood Design Review Committee**, pursuant to this Article 3, shall be in addition to, and not in lieu of, any approvals or permits which may be required under any federal, state or local law, statute, ordinance, rule or regulation, or under any other governing Recorded instrument. The **The Lofts on Redwood Design Review Committee** may condition its approval of any application, plans or other items submitted to it on delivery to the Committee of evidence satisfactory to the Committee that the Owner or other Person seeking its approval has also made appropriate applications for (and prior to commencing work shall have obtained) any and all such other approvals or permits, The **The Lofts on Redwood Design Review Committee** shall cooperate reasonably with any other approving authorities or entities; provided, however, that the Committee shall not be bound by any approvals,

permits or other decisions of any other such approving authority or entity, unless otherwise required by law.

3.8 Required Approvals for Further Property Restrictions. The Property is subject to the following additional approvals:

3.8.1 No Subdividing. No Dwelling Unit, or portion thereof, shall be further subdivided, and no portion less than all of any such Dwelling Unit, or any easement or other interest therein, shall be conveyed or transferred by any Owner without the prior written approval of the Declarant, so long as Declarant's Class B Membership exists, and thereafter, the Board. This provision shall not, in any way, limit Declarant from subdividing or separating, any property at any time owned by Declarant, and is not intended to prohibit any Owner from renting his or her Dwelling Unit as temporary overnight accommodations, subject to any Association Rules governing such rental activities. Except as otherwise authorized by this Section 3.8.1 or unless otherwise permitted in writing by Declarant, so long as Declarant's Class B Membership exists, and thereafter, the Board, no Owner of any Dwelling Unit shall offer or sell any interest in a Dwelling Unit under a timesharing, interval ownership, fractional, club or similar program.

3.8.2 Approval by The Lofts on Redwood Design Review Committee. No site plan, and no application for rezoning, variances or use permits shall be recorded or submitted to any Municipal authority unless the same has first been approved in writing by the **The Lofts on Redwood Design Review Committee**. Further, no changes or modifications shall be made in any such documents, instruments or applications once the same have been approved by the **The Lofts on Redwood Design Review Committee** hereunder unless such changes or modifications have first been approved by the **The Lofts on Redwood Design Review Committee** in writing.

3.9 Common Areas and Improvements. Declarant shall not be restricted in the location or in the number of Dwelling Units, Common Areas or other Improvements that may be created on the Property, except as may be required by the Project Documents, applicable zoning requirements, ordinances or regulations, and provided that when completed, Phase I of Project shall not contain more than 24 Dwelling Units. All Dwelling Units to be located on the Property shall be subject to the use restrictions contained in the Project Documents. No structures other than Dwelling Units, and Improvements approved by the **The Lofts on Redwood Design Review Committee** will be erected on the Property; provided, however, that Declarant reserves the right to create additional Common Areas and Improvements on the Property without limitation. Declarant makes no assurances as to location, size, type or number of Common Areas or other Improvements to be created on the Property.

3.10 Description of Limited Common Areas. Limited Common areas means a portion of the Common Areas reserved for the exclusive use and occupancy of one or more, but fewer than all, of the Owners to the exclusion of the other Owners. Limited Common Areas shall include, without limitation, any areas identified by this Declaration, a Supplemental Declaration or on the Plat or other recorded instrument as Limited Common within the Project to be for the exclusive use of one or more, but fewer than all, of the Owners. The use and occupancy of designated Limited Common Areas shall be reserved to the Owner of a Unit, as shown on the Plat or as specified in this Declaration, or in a Supplemental Declaration. In addition to the Association rules and other parking restrictions that Declarant or the Board may promulgate from time to time, each driveway designated for ingress and egress to a particular Unit shall constitute a Limited Common Area and the Owner(s) of such Unit shall have control and exclusive right of access to the use of the driveway constructed for the benefit of his, her or its Lot or Unit. Limited Common Areas reserved for the exclusive use and occupancy of a Unit shall be maintained, repaired, replaced and services by the Unit Owner.

3.11 Declarant's Exemption. No The Lofts on Redwood Design Review Committee approval shall be required for (i) any construction, installation, addition, alteration, repair, change, replacement or other work by, or on behalf of, the Declarant; (ii) initial Improvements constructed by, at the direction of, or with the express written approval of Declarant; (iii) normal maintenance of Exempt Property or previously approved Improvements; (iv) rebuilding on Exempt Property or previously approved improvements in accordance with its original design and dimensions; (v) work reasonably required to be performed in an emergency for the purpose of protecting any person or property from damage.

Article 4 EASEMENTS

4.1 Owners' Easements of Enjoyment.

4.1.1 Easements. Subject to the rights and easements granted to the Declarant in Section 4.4, each Owner and Occupant shall have a non-exclusive right and easement of enjoyment in, to and over the Common Areas, which right and easement shall be appurtenant to and shall pass the title to each Dwelling Unit purchased subject to the provisions of the Project Documents including, without limitation, the following:

4.1.1.1 Except as otherwise provided in this Declaration, no dedication, transfer, mortgage or encumbrance of all, or any portion of the Common Areas, shall be effective unless approved by Owners representing two-thirds (2/3) of the votes in each class of the Association Members. Notwithstanding the preceding sentence or any other provision of this Declaration to the contrary, the

Association shall have the right, without the consent of the Owners or any other Person (except Declarant, whose consent shall be required so long as Declarant owns any part of the Property), to dedicate portions of the Common Areas to the public, or grant easements over, under or through portions of the Common Areas to the public, to any Municipal Authority, or to any public, quasi-public or private utility company, for use as right-of-way, for utilities, for public landscape purposes and the like, as may be required or requested by any Municipal Authority or other entity having jurisdiction, or by a public, quasi-public or private utility company, in connection with or at the time of the development of portions of the Property.

4.1.1.2 The Association shall have the right to regulate the use of the Common Areas through the Association Rules and to prohibit access to such portions of the Common Areas not intended for use by the Owners, Lessees or other Occupants.

4.1.1.3 The Declarant and the Association shall each have the right to grant easements or licenses to Persons for the construction of Improvements on the Common Areas, and the Declarant and the Association shall each have the right to grant ingress and egress easements over the Common Areas in the Project to Persons who are not Association Members.

4.1.2 **Occupants Use of the Common Areas.** If a Dwelling Unit is leased or rented by its Owner, the Occupants of the Dwelling Unit, shall have the right to use the Common Areas during the term of the lease, and the Owner of such Dwelling Unit, shall have no right to use the Common Areas until the termination or expiration of such lease.

4.2 **Utility Easement.** There is hereby created an easement upon, across, over and under the Common Areas, certain portions of the Dwelling Units, and other property as depicted on the Plat for reasonable ingress, egress, installation, replacement, repair or maintenance of all utilities, including, but not limited to, gas, water, sewer, telephone, cable television and electricity. By virtue of this easement, it shall be expressly permissible for the providing utility company to install and maintain the necessary equipment on the Common Areas, certain portions of the Dwelling Units, and other property as depicted on the Plat. However, except within the public utility easements depicted on the Plat, no sewers, electrical lines, water lines or other utility or service lines may be installed or located on the Common Areas, or Dwelling Units, and other property except as initially designed, approved and/or constructed by the Declarant or as approved by the Board and, by the Owner of any such Dwelling Unit. If any utility company requests that a more specific easement be granted in its favor in substitution for the easement hereby established with respect to the Neighborhood

Common Areas, the Association shall have the power and authority, without the need for any consent by the Owners or any other Person, to grant the more specific easement on such terms and conditions as the Board deems appropriate.

4.3 Easements for Ingress and Egress. There are hereby created easements for ingress and egress for pedestrian traffic over, through and across sidewalks, paths, walks and lanes that from time to time may exist upon the Common Areas. There is also created an easement for ingress and egress for pedestrian and vehicular traffic over, through and across streets and parking areas as from time to time may be paved and intended for such purposes. Such easements shall run in favor of and be for the benefit of the Owners and Occupants of the said Dwelling Units, and their guests, families, tenants and invitees. There is also hereby created an easement upon, across and over the Common Areas within the Project for vehicular and pedestrian ingress and egress for police, fire, medical and other emergency vehicles and personnel. The Board shall have the right to relocate and/or reconfigure any and all such easements from time to time as it sees fit without the consent of any Owners (but subject to any necessary approvals of any Municipal Authority having jurisdiction thereover including in particular, but without limitation, the easements granted herein for police, fire, medical and other emergency vehicles and personnel).

4.4 Declarant's Use and Easements. Declarant shall have the right and an easement to maintain sales or leasing offices, management offices and models throughout the Project and to maintain one or more advertising signs on the Property, including without limitation on the Common Areas, with respect to the sales of Dwelling Units, or other property in the Project or within any of the Additional Property. Declarant reserves the right to place Models, management offices and sales and leasing offices on any property owned by Declarant or a Declarant Affiliate and on any portion of the Project, including without limitation on the Common Areas, in such number, of such size and in such locations as Declarant deems appropriate.

4.4.1 So long as Declarant is marketing Dwelling Units, or other portions of the Property, Declarant shall have the right to restrict the use of the parking spaces on the Common Areas. Such right shall include reserving such spaces for use by prospective purchasers, Declarant's employees and others engaged in sales, leasing, maintenance, construction or management activities.

4.4.2 Declarant shall have the right and an easement on and over the Common Areas to construct all improvements Declarant may deem necessary, and to use the Common Areas, Dwelling Units, and other property owned by the Declarant for construction or renovation related purposes including the storage of tools, machinery, equipment, building materials, appliances, supplies, and fixtures, and the performance of work respecting the Project.

4.4.3 Declarant shall have the right and an easement upon, over and through the Common Areas as may be reasonably necessary for the purpose of exercising the rights granted to or reserved by the Declarant in this Declaration.

4.5 **Easement in Favor of Association.** Dwelling Units, are hereby made subject to the following easements in favor of the Association and its directors, officers, agents, employees and independent contractors:

4.5.1 For inspection during reasonable hours of all Dwelling Units, in order to verify the performance by Owners or other Persons of all items of maintenance and repair for which they are responsible;

4.5.2 For inspection, maintenance, repair and replacement of portions of the Common Areas accessible only from such Dwelling Units.

4.5.3 For correction of emergency conditions on one or more Dwelling Unit, or on portions of the Common Areas accessible only from such Dwelling Unit;

4.5.4 For the purpose of enabling the Association, the Board, the **The Lofts on Redwood Design Review Committee** or any other committees appointed by the Board to exercise and discharge during reasonable hours their respective rights, powers and duties under the Project Documents;

4.5.5 For inspection during reasonable hours of a Unit in order to verify that the Owners and Occupants, and their guests, tenants and invitees, are complying with the provisions of the Project Documents.

4.6 **Easement for Demising Wall.** Each Owner, for each Dwelling Unit that he, she or it owns, hereby acknowledges and agrees that a Demising Wall may presently encroach upon or overlap the Owner's Dwelling Unit. To the extent the Demising Wall does encroach upon or overlap a Dwelling Unit, the Owner of said Dwelling Unit hereby grants to the adjoining Owner of the other Dwelling Unit that shares a Demising Wall an easement over and upon its Dwelling Unit, for the purpose of maintaining the Demising Wall and carrying out the other obligations set forth in this Declaration. By accepting a deed to a Unit, each Owner hereby covenants and agrees not to do anything or to erect any barrier that will hinder, delay or limit the maintenance of the Demising Wall and the performance of the Association's obligations and each Owner's respective obligations under this Declaration.

Article 5
THE ASSOCIATION; ORGANIZATION; ASSOCIATION
MEMBERSHIP AND VOTING RIGHTS

5.1 Formation of Association. The Association shall be a nonprofit Utah corporation charged with the duties and vested with the powers prescribed by law and set forth in the Project Documents. In the event of any conflict or inconsistency between this Declaration and the other Project Documents, priority shall be given to the Project Documents in the following order: this Neighborhood Declaration, Articles of Incorporation of the Association, Bylaws of the Association, and the Association Rules, as each such respective document may be amended from time to time.

5.2 Governing Board and Officers. The affairs of the Association shall be conducted by the Board and such officers as the Board may elect or appoint in accordance with the Articles and the Bylaws. The Board shall annually elect a President, Secretary and Treasurer from among the Board membership. Unless the Project Documents specifically require the vote or written consent of the Association Members, approvals or actions to be given or taken by the Association shall be valid if given or taken by the Board. The Board may appoint various committees at its discretion. Members of such committees shall be considered Officers of the Association. The Board may also appoint or engage a manager to be responsible for the day-to-day operation of the Association and the Common Areas; the Board shall determine the compensation to be paid to any such manager.

5.3 Association Rules. The Board may, from time to time, and subject to the provisions of this Declaration, adopt, amend and repeal the Association Rules which generally pertain to: (a) the management, operation and use of Common Areas; (b) traffic and parking restrictions including speed limits on the private streets within the Project; (c) minimum standards for any maintenance of the Common Areas, Dwelling Units, and Improvements within the Project; or (d) any other subject within the jurisdiction of the Association. In the event of any conflict or inconsistency between the provisions of this Declaration and the Association Rules, the provisions of this Declaration shall prevail.

5.4 Personal Liability. No member of the Board, the **The Lofts on Redwood Design Review Committee**, or any other committee of the Association, and no officer of the Association shall be personally liable to any Association Member, or to any other Person including the Association, for any damage, loss or prejudice suffered or claimed on account of any act, omission, error or negligence of the Association, the Board, or any member thereof, the manager, any representative or employee of the Association, any officer of the Association, or any member of any other committee of the Association; provided, however, the limitations set forth in this Section shall not afford protection to employees and agents of the Association or any person who has engaged in intentional misconduct.

5.5 Borrowing Power. The Association may borrow money in accordance with the Bylaws in such amounts, at such rates, upon such terms and security, and for such periods of time as is necessary or appropriate as determined by the Board without a vote of the Association Members. The Association may secure such loans by pledging any of its properties including future Assessments.

5.6 Implied Rights. The Association may exercise any expressed or implied right or privilege given to the Association expressly by the Project Documents or any other right or privilege reasonably necessary to effectuate any such right or privilege.

5.7 Membership in the Association. Every Owner, including Declarant, shall be a member of the Association, and the Declarant shall be a member of the Association so long as it owns any part of the Project (unless and until the Declarant expressly relinquishes in writing its status as a Association Member).

5.8 Votes in the Association. The Association shall have two classes of Association Memberships which shall be entitled to the following voting rights:

5.8.1 Class A. Each Owner of a Dwelling Unit shall be a Class A Member of the Association, and each Owner is allotted one (1) vote per Dwelling Unit owned, i.e., if there are multiple Owners of a Dwelling Unit, said Owners are entitled to only one vote for their Dwelling Unit. Each Class A membership in the Association shall be held jointly by all Owners of that Dwelling Unit.

5.8.2 Class B. Declarant shall be a Class B Member of the Association and shall be entitled to three (3) votes for each Unit held by Declarant as an Owner.

5.9 Voting Procedures. A change in the ownership of a Dwelling Unit shall be effective for voting purposes from the time the deed, or other instrument, effecting such change is recorded, or, in connection with Owners who are vendees, upon the execution of the installment purchase contract. Thereafter, the new Owner shall give the Board written notice of such change of ownership and provided satisfactory evidence thereof. The vote for each Dwelling Unit must be cast as a unit, and fractional votes shall not be allowed. In the event that a Dwelling Unit is owned by more than one person and such Owners are unable to agree among themselves as to how their vote or votes shall be cast, they shall lose their right to vote on the matter in question. If any Association Member casts a vote representing a certain Dwelling Unit, it will thereafter be conclusively presumed for all purposes that he, she or it was acting with the authority and consent of all other Owners of the same Dwelling Unit, unless objection thereto is made at the time the vote is cast. In the event more than one Owner attempts to cast the vote for a particular Dwelling Unit, the vote for that Unit shall be deemed void and shall not be counted.

5.10 Transfer of Association Membership. The voting rights and assessment obligations of any Association Member other than the Declarant shall not be assigned, transferred, pledged, conveyed or alienated in any way except upon transfer of ownership of an Owner's Dwelling Unit; and then only to the transferee of ownership of said Dwelling Unit. A transfer of ownership of a Dwelling Unit may be effected by deed, intestate succession, testamentary disposition, foreclosure or such other legal process as is now in effect or as may hereafter be established under or pursuant to applicable law. Any attempt to make a prohibited transfer shall be void. Any transfer of ownership of a Dwelling Unit, shall operate to transfer the

Association Membership appurtenant to said Dwelling Unit to the new Owner thereof. All transfers, except for transfers made pursuant to intestate succession, and/or testamentary disposition, i.e. by will or through a trust to related parties, shall be subject to the reinvestment fee described in Section 6.12.

5.11 Availability of Project Documents and Financial Statements. The Association shall maintain and have current copies of the Project Documents, membership register books, records, and financial statements available for inspection by the Association Members or by an Eligible Mortgagee. Generally, these documents shall be available during the Association's normal business hours, and may be maintained and kept at the office of the manager for the Association. The Association may, as a condition to permitting a Association Member to inspect the membership register or to furnishing information from the register, require that the Association Member agree in writing not to use, or allow the use of, information from the membership register for commercial or other purposes not reasonably related to the regular business of the Association and the Association Member's interest in the Association

Article 6 COVENANT FOR ASSESSMENTS AND CREATION OF LIEN

6.1 Creation of Lien and Personal Obligation of Assessments. Declarant, for each Dwelling Unit hereby covenants and agrees, and each Owner, other than the Declarant, by becoming the Owner of a Dwelling Unit, is deemed to covenant and agree, to pay Assessments to the Association in accordance with this Declaration. All Assessments shall be established and collected as provided in this Declaration. The Assessments, together with interest, late charges and all costs, including but not limited to reasonable attorneys fees, incurred by the Association, in collecting or attempting to collect delinquent Assessments, whether or not suit is filed, shall be a charge on the Dwelling Unit charged with said Assessment, and shall be a continuing lien upon said Dwelling Unit against which each such Assessment is made. Each Assessment, together with interest and all costs, including but not limited to, interest, late charges, court costs, and reasonable attorney's fees, incurred by the Association, in collecting or attempting to collect delinquent Assessments, whether or not suit is filed, shall also be the personal obligation of each Person who was an Owner of the Dwelling Unit so assessed, at the time when the Assessment became due. The personal obligation for delinquent Assessments shall not pass to the successors in title of the Owner unless expressly assumed by them (unless title is transferred to one or more such successors for purposes of avoiding payment of any Assessment or is transferred to a person controlling, controlled by or under common control with the Owner transferring title), but the lien created by this Declaration against the Dwelling Unit shall continue to secure payment of such delinquent Assessment (including, but not limited to, any and all interests and late charges) until the same are fully paid.

6.2 Annual Assessment. In order to provide for the operation, and management of the Association, and to provide funds for the Association to pay all Common Expenses and to

perform its duties and obligations under the Project Documents, including, without limitation, the establishment of reasonable reserves for replacements, maintenance and contingencies, the Board, for each fiscal year shall assess an Annual Assessment against each Dwelling Unit which is Assessable Property. Annual Assessments shall be computed and assessed against all Units in the Project as follows:

- 6.2.1 Common Expense.** Annual Assessments shall be based upon advance estimates of the Association's cash requirements to provide for payment of all estimated expenses arising out of or connected with the maintenance and operation of the Common Areas, and the furnishing of bulk services common to all Dwelling Units. Such estimated expenses may include, without limitation, the following: landscaping costs, management expenses; real property taxes on the Common Areas; premiums for all insurance that the Association is required or permitted to maintain hereunder; repairs and maintenance; wages of Association employees, including fees for a manager; utility charges, including charges for utility services to the Common Areas; any deficit remaining from a previous period; creation of an adequate contingency reserve; major maintenance reserve and/or sinking fund; creation of an adequate reserve fund for maintenance repairs; and replacement of those Common Areas that must be replaced on a periodic basis; and any other expenses and liabilities which may be incurred by the Association for the benefit of the Owners under or by reason of this Declaration. Such shall constitute the Common Expenses, and all funds received from assessments under this Section shall be part of the common expense fund. Two separate and distinct funds shall be created and maintained hereunder, one for operating expenses and one for capital expenses which together shall constitute the common expense fund.
- 6.2.2 Apportionment.** Common Expenses, as authorized by the Board, shall be apportioned among and assessed to all Association Members, based upon the square footage of said Owner's Dwelling Unit to the total square footage of all Dwelling Units. Each Owner, for each Dwelling Unit that he, she or it owns, shall be liable for their proportional share, based upon the square footage, of said Owner's Dwelling Unit to the total square footage of all Dwelling Units of the Common Expenses. Declarant shall be liable for the amount of any assessments against a Dwelling Unit, owned by it which does not constitute Exempt Property.
- 6.2.3 Annual Budget.** Annual Assessments shall be determined on the basis of a fiscal year beginning January 1 and ending December 31 next following, provided the first fiscal year shall begin on the date of this Declaration, and end on or before December 31 of that fiscal year. The Board shall prepare and furnish to each Owner, or cause to be prepared and furnished to each Owner, an operating budget for the upcoming fiscal year. The budget shall

itemize the estimated Common Expenses for such fiscal year, anticipated receipts (if any) and any deficit or surplus from the prior operating fiscal year. The budget shall serve as the supporting document for the Annual Assessment for the upcoming fiscal year and as the major guideline under which the Project shall be operated during such fiscal year.

6.2.4 Notice and Payment. Beginning with the 2014 fiscal year, the Board shall give notice of the Annual Assessment to each Owner at least thirty (30) days prior to the beginning of each fiscal year, but the failure to give prior notice shall not affect the validity of the Annual Assessment established by the Board, nor relieve any Owner from its obligation to pay the Annual Assessment. If the Board determines during any Assessment Period that the funds budgeted for that fiscal year are, or will become, inadequate to meet all Common Expenses for any reason, including, without limitation, nonpayment of Assessments by Association Members, it may increase the Annual Assessment for that fiscal year and the revised Annual Assessment shall commence on the date designated by the Board.

6.3 Exempt Property Assessments. Declarant or a Declarant Affiliate may expressly waive its right to an exemption from Assessments as to some or all Exempt Properties of which it is then the Owner, by Recording an amendment to this Neighborhood Declaration identifying such Exempt Properties and signed by it and all Mortgagees of such Exempt Properties. In such event, the Declarant's exemption shall terminate as to each identified Exempt Property when such an amendment to this Declaration is Recorded. Any such waiver shall run with the title to each such Exempt Property and bind its subsequent Owners, including Declarant or any Declarant Affiliate. All Exempt Property described herein shall be exempt from the Assessments and membership in the Neighborhood Association (provided, however, Declarant shall remain a Class B Member in the Association at all times so long as it owns a Dwelling Unit within the Project, notwithstanding its temporary exemption status from required Assessment payments) and its associated privileges and responsibilities, but shall nevertheless be subject to all other provisions of the **The Lofts on Redwood Design Review Committee Guidelines**, and this Declaration, including but not limited to, the use restrictions and architectural controls thereof. Anything in this Section to the contrary notwithstanding, if, after an Assessment's record date, but before the end of the fiscal year for which it is levied, an Exempt Property becomes Assessable Property, then each Assessment which would have been levied against such Assessable Property for such fiscal year if it were not Exempt Property (as hereafter reduced) shall be due on the later of (a) the date on which such Assessment would have been due, if such part of the Project had been Assessable Property on such Record date, or (b) the date on which such Assessable Property becomes subject to Assessment levy. If an Assessable Property is added to the Project as provided for above, then the Neighborhood Association shall be deemed, automatically, and without the need for further action, to have levied against it each Assessment for such fiscal year which the Association has levied against the other Assessable Properties. Each, such Assessment levied against such

Assessable Property shall be in an amount determined under this Section as if it were eligible for such levy on such Record date, but then reduced in proportion to the number of days (if any) in such fiscal year elapsed as of (and including) the date, on which such Exempt Property becomes an Assessable Property.

6.4 Special Assessments. The Association may levy against each Dwelling Unit, which is Assessable Property, in any fiscal year, a Special Assessment for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement or Improvements upon the Common Areas, including fixtures and personal property related thereto, provided that any Special Assessment shall have the assent of two-thirds (2/3) of the votes entitled to be cast by Association Members who are voting in person or by proxy at a meeting duly called for such purpose.

6.5 Uniform Rate of Assessment. The amount of any Assessment against each Dwelling Unit shall be fixed at a uniform rate per Association Membership, based upon the square footage of said Owner's Unit to the total square footage of all Units.

6.6 Rules Regarding Billing and Collection Procedures. Annual and Special Assessments shall be collected with such frequency as specified by the Board. The Board shall have the right to adopt rules and regulations setting forth procedures for the purpose of making Assessments, and for the billing and collection of the Assessments, provided that the procedures are not inconsistent with the provisions of this Declaration. The failure of the Association to send a bill to an Association Member shall not relieve any Association Member of his, her or its liability for any Assessment or charge under this Declaration.

6.7 Refunds. The Association shall be under no duty to refund any payments received by it even though the ownership of a Dwelling Unit, changes during a fiscal year. Successor Owners of Dwelling Units shall be given credit for prepayments, on a prorated basis, made by prior Owners.

6.8 Effect of Nonpayment of Assessments. Remedies of the Association for the nonpayment of Assessments, include, but are not limited to:

6.8.1 Any Assessment, or any installment of an Assessment, not paid within thirty (30) days after the Assessment, or the installment of the Assessment, first became due, shall bear interest from the due date at the rate established from time to time by the Board. In addition, the Board may establish a late fee to be charged to any Owner who has not paid any Assessment, or any installment of an Assessment, within thirty (30) days after such payment was due.

6.8.2 The Association shall have a lien on each Dwelling Unit, for all Assessments levied against any such Dwelling Unit, and for all other fees and charges payable to the Association by the Owner of a Dwelling Unit

pursuant to this Declaration. Recording of this Declaration constitutes record notice and perfection of the Assessment Lien. The Association may, at its option, Record a notice of lien setting forth the name of the delinquent Owner as shown in the records of the Association, the legal description of the Dwelling Unit against which the notice of lien is Recorded, and the amount claimed to be past due as of the date of the Recording of the notice, including interest, lien recording fees and reasonable attorneys' fees.

- 6.8.3** The Assessment Lien shall have priority over all liens or claims except for (a) tax liens for real property taxes; (b) assessments in favor of any Municipal Authority or assessment district; and (c) the lien of any First Mortgage. Regardless whether the Assessment Lien has, or is deemed to have, priority over liens securing assessments levied pursuant to this Declaration, foreclosure of the Assessment Lien, with respect to a Dwelling Unit, shall not impair, extinguish or otherwise affect such other assessment liens or relieve or release any obligations for such other assessments secured by such Dwelling Unit.
- 6.8.4** The Association shall not be obligated to release any Recorded notice of lien until all delinquent Assessments, interest, lien fees, reasonable attorneys' fees, court costs collection costs and all other sums payable to the Association by the Owner of the Dwelling Unit have been paid in full.
- 6.8.5** The Association shall have the right, at its option, to enforce collection of any delinquent Assessments, together with interest, lien fees, reasonable attorney's fees and any other sums due to the Association in any manner allowed by law, including but not limited to taking any or all of the following actions, concurrently or separately (and by exercising, either of the remedies hereinafter set forth, Association does not prejudice or waive its right to exercise the other remedy):
- 6.8.5.1** Bringing an action at law against the Owner personally obligated to pay the delinquent Assessments. Such action may be brought without waiving the Assessment Lien securing the delinquent Assessments.
 - 6.8.5.2** Enforce the Assessment Lien against the applicable Dwelling Unit by sale or foreclosure conducted in accordance with the then prevailing Utah law relating to the foreclosure of realty mortgages or deeds of trust (including the right to recover any deficiency), the method recognized under Utah law for the enforcement of a mechanic's lien which has been established in accordance with Chapter I, Title 38, Utah Code Ann., as

amended from time to time, or any other manner permitted by law, and the Unit may be redeemed after foreclosure sale if provided by law.

6.8.5.3 In order to facilitate the foreclosure of any such Assessment Lien in the manner provided at law for the foreclosure of deeds of trust, Declarant hereby designates Richard M. Matheson, Attorney at Law, 5383 South 900 East, Suite 205, Salt Lake City, Utah 84117 trustee and grants, conveys, and warrants, pursuant to Utah Code Annotated §§ 57-1-20 and 57-1-21, the Project, IN TRUST, to said Richard M. Matheson as trustee with full power of sale, to foreclose any such Assessment Lien as directed by the Board, on any Dwelling Unit and all improvements to any such Dwelling Unit for the purpose of securing payment of Assessments under the terms of this Declaration. The Board may, at any time, designate one or more successor trustees, in the place of Richard M. Matheson, in accordance with provisions of Utah law for the substitution of trustees under deeds of trust. Such trustee, and any successors, shall not have any other right, title or interest in the Project beyond those rights and interests necessary and appropriate to foreclose any Assessment Lien against a Dwelling Unit, arising pursuant hereto. In any such foreclosure, the Owner of a Dwelling Unit, being foreclosed, shall be required to pay the costs and expenses of such proceeding (including reasonable attorneys' fees), and such costs and expenses shall be secured by the Assessment Lien being foreclosed. The Association shall have the power to bid at any foreclosure sale and to purchase, acquire, hold, lease, mortgage and convey any and all Dwelling Units, at such sale.

6.8.5.4 Foreclosure of an Assessed Lien. No Assessment Lien shall be foreclosed or otherwise enforced until the Association Member has been given not less than thirty (30) days written notice, prior to such foreclosure or enforcement, that the Assessment or any installment thereof is or will be due, and of the amount owing, and that the Association intends to pursue a non-judicial foreclosure with respect to said Owner's Dwelling Unit to enforce the Association's lien for the unpaid Assessment. Such notice may be given at any time after delinquency of such payment, and shall be by first class and certified U.S. mail, return receipt requested. The Notice to the Association Member shall be substantially as follows:

NOTICE OF NON-JUDICIAL FORECLOSURE AND

RIGHT TO DEMAND JUDICIAL FORECLOSURE

The Lofts on Redwood Owner's Association, Inc., intends to foreclose upon your Dwelling Unit and your allocated interest in the common areas and facilities using a procedure that will not require it to file a lawsuit or involve a court. This procedure is being followed in order to enforce the Association's lien against your Dwelling Unit and to collect the amount of an unpaid Assessment against your Dwelling Unit, together with applicable late fees and costs, including attorney fees, associated with the foreclosure proceeding. Alternatively, you have the right to demand that a foreclosure of your property be conducted in a lawsuit with the oversight of a judge. If you make this demand, and the Association prevails in the lawsuit, the costs and attorney fees associated with the lawsuit will likely be significantly higher than if a lawsuit were not required, and you may be responsible for paying those costs and attorney fees. If you want to make this demand, you must state in writing that "I demand a judicial foreclosure proceeding upon my Dwelling Unit" or words substantially to the effect. You must send this written demand by first class and certified U.S. mail, return receipt requested, within fifteen (15) days after the date of the postmark on the envelope in which this notice was mailed to you. The address to which you must mail your demand is to **The Lofts on Redwood Owner's Association, Inc.**, 1759 East 4620 South, Salt Lake City, Utah 84117.

6.8.6 If the Owner of a Dwelling Unit that has leased said Unit, fails to pay an assessment for more than sixty (60) days after the assessment is due, the Board may demand that the tenant pay to the Association all future lease payments due to the Owner, beginning with the next monthly or other periodic payment, until the amount due to the Association is paid.

6.8.6.1 Prior to requiring a tenant to pay lease payment to the Association, the Board shall give the Dwelling Unit Owner notice, which notice shall substantially state as follows:

NOTICE OF INTENT TO COLLECT LEASE PAYMENT

YOU ARE HEREBY GIVEN NOTICE THAT THE **The Lofts on Redwood OWNER'S ASSOCIATION, INC.** INTENDS TO COLLECT ALL FUTURE LEASE PAYMENTS DUE YOU, AS A DWELLING UNIT OWNER, FROM YOUR TENANT,

beginning with the next monthly or periodic payment due from your tenant, until the Assessment due, including, interest, late fees, and attorney's fees has been paid in full.

That the amount of the Assessment is \$ ____, plus accrued interest from the date that the Assessment was due, late fees, collection costs, and attorney's fees, and any costs of collection, including attorney fees, and other Assessments that becomes due may be added to the total amount due and will be paid through the collection of your lease payments.

That if the Assessment is not paid within fifteen (15) days of your receipt of this notice, the Association intends to demand payment of future lease payments from your tenant.

- 6.8.6.2** If the Dwelling Unit Owner fails to pay the Assessment as noticed in the preceding Subsection above, the Board may exercise the rights of the Association by delivering written notice to the tenant which notice shall substantially state as follow:

Due to the Dwelling Unit Owner's failure to pay an Assessment within the required time, the Board has notified the Dwelling Unit Owner of the Board's intent to collect all lease payments until the amount owing is paid, and that the law requires the tenant to make all future lease payments, beginning with the next monthly or other periodic payment, to **The Lofts on Redwood Owner's Association, Inc.** until the amount is paid; and that the tenant's payment of lease payments to the Association does not constitute a default under the terms of the lease with the Dwelling Unit Owner. A copy of said notice shall be mailed to the Dwelling Unit Owner. Within five (5) business days after the amount owing is paid, the Board shall notify you in writing that you are no longer required to pay future lease payments to the Association and shall mail a copy of said notification to the Dwelling Unit Owner.

- 6.8.7** The Association shall have the right to suspend the rights of any Owner or Occupant to the use and enjoyment of the Common Areas: (1) for any period during which an Assessment remains delinquent; (2) for a period not to exceed sixty (60) days for any infraction of the Project Documents; or (3) for successive 60-day periods if any such infraction is not corrected during any preceding suspension period.

6.8.7.1 Prior to suspending an Owner or Occupant's right to use and enjoy the Common Areas, the Association shall give the delinquent Dwelling Unit Owner notice as provided in Subsection 12.11 of this Declaration. Said Notice shall state substantially as follows:

NOTICE OF SUSPENSION OF RIGHT TO NEIGHBORHOOD
COMMON AREAS

YOU ARE HEREBY GIVEN NOTICE that, **The Lofts on Redwood Owner's Association, Inc.** will suspend your right of access to use the Common Areas, if the Association does not receive payment of Assessments within fifteen (15) days of the your receipt of this Notice. Your past due Assessment(s), including any interest or late payment fee is/are \$ ____.

In the alternative, you may submit a written request to the Association for an informal hearing before the Board to dispute the Assessments. Any such request must be submitted in writing to the Board within fifteen (15) days after your receipt of a Notice of Suspension. If so requested, the Board will conduct an informal hearing and make a final determination regarding any contested Assessment within fifteen (15) days of receipt of your request for an informal hearing.

If you request a hearing, your access of Common Areas or will not be suspended until after the Board conducts its informal hearing and makes a final decision.

If the Board finds that the Assessment is due, but has not been timely paid, the Board may then suspend your use of the Common Areas until any such Assessment has been paid in full.

6.9 Evidence of Payment of Assessments. Upon receipt of a written request by a Association Member or any other Person, the Association shall, within five (5) business days of receipt of said request, issue to such Association Member or other Person a written certificate stating: (a) that all Assessments, interest and other fees and charges have been paid with respect to any specified Dwelling Unit, as of the date of such certificate; or (b) if all Assessments have not been paid, the amount of such Assessments, interest, fees and charges due and payable as of such date. The Association may, as set forth in §57-8-6.3(b), Utah Code Annotated, make a reasonable charge, as allowed by Utah law, for the issuance of such certificates, which charges must be paid at the time the request for any such certificate is made, unless a sale of a Dwelling Unit is pending, in which case the charges for the certificate shall be paid upon the closing of the sale of said Dwelling Unit. Any such certificate, when duly issued as herein provided, shall be conclusive and binding with respect

to any matters therein stated as against any bona fide purchaser of, or lender on, the Dwelling Unit, in question.

6.10 Purposes for Which Association's Funds May be Used. The Association shall apply all funds and property collected and received by it (including the Assessments, fees, loan proceeds, surplus funds and all funds and property received by it from any other source) for the common good and benefit of the Project and the Owners and Occupants by devoting said funds and property, among other things, to the acquisition, construction, alteration, maintenance, provision and operation, by any manner or method whatsoever, of any and all roads, land, properties, improvements, facilities, services, projects, programs, studies and systems, within or without the Project, which may be necessary, desirable or beneficial to the general common interests of the Project, the Owners and the Occupants, and to the establishment and funding of reasonable reserves for replacements and contingencies. The following are some, but not all, of the areas in which the Association may seek to aid, promote and provide for such common benefit: social interaction among Association Members and Occupants, maintenance of landscaping on Common Areas and right-of-way and drainage areas within the Project, construction, operation and maintenance of recreational and other facilities on Common Areas, recreation, insurance, communications, ownership and operation of vehicle storage areas, education, transportation, health, utilities, public services, safety, indemnification of officers, directors and committee members of the Association, employment of professional managers, hiring professional consultants such as architects, engineers, attorneys and accountants, and pledging future Assessments as collateral to secure Association financing.

6.11 Surplus Funds. The Association shall not be obligated to spend in any year all the Assessments and other sums received by it in such year, and may carry forward as surplus any balances remaining. The Association shall not be obligated to reduce the amount of the Annual Assessment in the succeeding year if a surplus exists from a prior year, and the Association may carry forward from year to year such surplus as the Board in its discretion may determine to be desirable for the greater financial security of the Association and the accomplishment of its purposes.

6.12 Reinvestment Fee. Each purchaser, other than the Declarant or a Declarant Affiliate, of a Dwelling Unit, shall notify the Association of his, her or its purchase of said Dwelling Unit. The Association may require the seller or purchaser of any such Dwelling Unit to pay to the Association a reasonable reinvestment fee in an amount to be set by the Board, and the reinvestment fee shall be secured by the Assessment Lien.

6.13 Notice for Meetings to Consider Special Assessments. All written notices of any meeting called for the purpose of approving the establishment of any Special Assessment shall be sent to all Association Members in accordance with the time periods and provisions set forth in the Bylaws.

Article 7

MAINTENANCE

7.1 Common Areas and Right of Ways.

- 7.1.1 The Association, or its duly delegated representative, shall manage, maintain, repair and replace the Common Areas and all Improvements located thereon (subject to Section 7.1.4). The Association may, but shall not be obligated to, maintain areas which any Municipal Authority or any utility company is maintaining or is obligated to maintain.
- 7.1.2 The Association, or its duly delegated representatives, shall manage, maintain, repair, and replace all streets and roads within the Project (subject to Section 7.1.1)
- 7.1.3 The Board shall be the sole judge as to the appropriate maintenance of all Common Areas and other properties maintained by the Association. Any cooperative action necessary or appropriate to the proper maintenance and upkeep of said properties shall be taken by the Board or by its duly delegated representative.
- 7.1.4 In the event any deed restriction, the Plat, or this Declaration, permits the Board to determine whether or not Owners of a certain Dwelling Unit will be responsible for maintenance of certain Common Areas or right-of-way areas, the Board shall have the sole discretion to determine whether or not it would be in the best interest of the Owners and Occupants for the Association or an individual Owner to be responsible for such maintenance, considering cause, cost, uniformity of appearance, location and other factors deemed relevant by the Board. The Board may cause the Association to contract to provide maintenance service to Owners having such responsibilities, in exchange for the payment of such fees as the Association and Owner may agree upon.

7.2 Maintenance of Units. Except as otherwise provided herein, each Owner of a Dwelling Unit, and/or a Limited Common Area, shall be responsible for maintaining, repairing or replacing his, her or its Dwelling Unit and/or Limited Common Area, and all other Improvements situated thereon that are subject to said Owner's exclusive control. Areas subject to the exclusive control of the Owner shall include, but are not limited to, the interior portions of the Owner's Dwelling Unit, as well as the Owner's assigned Limited Common Area. All Dwelling Units, Limited Common Areas, and other Improvements shall at all times be kept in good condition and repair. Landscaping shall be maintained as required by Section 7.4.

- 7.2.1 Roof Repair and Replacement.** The Association shall be responsible for the periodic replacement of Building roofs. There is no requirement that all roofs be replaced in the same building season. The replacement of any

Building roof shall be a capital expense payable from the capital expense fund, and uniformly assessable, based upon the square footage of the Owner's Unit to the total square footage of all Units among all Members of the Association, irrespective of the ownership of the Building roof being replaced.

7.3 Installation of Landscaping. In order to maintain uniformity of appearance, the Association shall install (if not already installed) grass, trees, plants and other landscaping improvements (together with an irrigation system sufficient to adequately water any grass, trees, plants and other landscaping improvements) as the Association deems appropriate for the benefit of the Owners. Such landscaping Improvements shall constitute Common Areas, and the cost of any such installation shall be paid to the Association by the Owners as a part of the Annual Assessment upon demand and assessment from the Board. All landscaping must be installed in accordance with plans approved in writing by the **The Lofts on Redwood Design Review Committee**. Any amounts payable by an Owner to the Association pursuant to this Section shall be secured by the Assessment Lien and the Association may enforce collection of such amounts in the same manner and to the same extent as provided elsewhere in this Declaration for the collection and enforcement of Assessments.

7.4 Assessment of Certain Costs of Maintenance and Repair. In the event that the need for maintenance or repair of the Common Areas or any other area maintained by the Association is caused through the willful or negligent act of any Association Member, his, her or its family, tenants, guests or invitees, the cost of such maintenance or repairs shall be added to and become a part of the Assessment to which such Association Member and the Neighborhood Association Member's Unit is subject and shall be secured by an Assessment Lien. Any charges or fees to be paid, by the Owner of a Dwelling Unit, pursuant to this Section in connection with a contract entered into by the Association with an Owner for the performance of an Owner's maintenance responsibilities shall also become a part of such Assessment and shall be secured by such Assessment Lien.

7.5 Improper Maintenance and Use of a Unit. In the event any portion of any Dwelling Unit is so maintained as to present a public or private nuisance, or substantially detracts from the appearance or quality of the surrounding Dwelling Units or other areas of the Project which are substantially affected thereby or related thereto, or in the event any portion of a Dwelling Unit is being used in a manner which violates the Project Documents, or in the event the Owner of any Dwelling Unit is failing to perform any of its obligations under the Project Documents, the Board may make a finding to such effect, specifying the particular condition or conditions which exist, and pursuant thereto give notice thereof to the offending Owner that unless corrective action is taken within fourteen (14) days, the Board may cause such action to be taken at said Owner's cost. If at the expiration of said 14-day period the requisite corrective action has not been taken, the Board shall be authorized and empowered to cause such corrective action as it deems appropriate to be taken and the cost thereof shall be added to and become a part of the Assessment to which the offending Owner and the Owner's Dwelling Unit is subject and shall be secured by an Assessment Lien.

7.6 Maintenance of Demising Walls. By acceptance of a deed to a Dwelling Unit, each Owner hereby acknowledges, agrees and understands that it is essential that any Demising Wall be maintained in good condition and repair to preserve the integrity of any adjoining Dwelling Unit as they are used and occupied by the Owners. With respect to the surface components of the Demising Wall, each Owner agrees to maintain and keep in good condition and repair, including the making of replacements as needed all surface components which face into such Owners' respective Dwelling Unit. With respect to pipes, conduits, ducts and other utility lines and connections which benefit only one of the Owners, the Owner benefited solely thereby shall be fully responsible for the cost of maintaining such items in good condition and repair, including the making of replacements as needed. With respect to structural components of the Demising Wall, except as may be otherwise provided in the immediately preceding sentence, the Owners agree to share equally in the cost of maintenance and upkeep thereof in good condition and repair, including the replacement thereof as necessary.

7.7 Failure to Maintain Demising Wall. If any Owner shall fail to comply with the provisions of this Declaration as to maintenance, repair or use of the Demising Wall, or other obligations contained herein ("Defaulting Owner"), then in any such event the Adjoining Owner shall have the right, upon thirty (30) days written notice to the Defaulting Owner (unless within such 30-day period the Defaulting Owner shall cure such default, or in the case of a non-monetary default which by its nature cannot be cured within such 30-day period, the Defaulting Owner shall take such action as is reasonably calculated to commence the curing thereof, and thereafter shall diligently prosecute the curing thereof to completion) to proceed to take such action as shall be necessary to cure such default, all in the name of and for the account of the Defaulting Owner. The Defaulting Owner shall on demand reimburse the other Adjoining Owner taking such action for the monies actually expended by such Adjoining Owner and the Adjoining Owner's reasonable out-of-pocket expenses in so doing together with interest thereon as set forth below from the date of demand to the date of payment. Notwithstanding the foregoing, if the non-defaulting Adjoining Owner shall in good faith deem that an emergency is occurring or has occurred, so that the default requires immediate curing, then no notice shall be required and the non-defaulting Adjoining Owner may act promptly without giving notice and take such action as is necessary to cure the alleged failure. Any Adjoining Owner performing any action pursuant to the preceding sentence shall interfere to the minimum extent possible with the Defaulting Owner's use and occupancy of such Defaulting Owner's Unit, and, with reasonable promptness, shall give verbal or written notice to the Defaulting owner of such action and the claimed failure.

7.7.1 All remedies hereby specifically set forth in this Section 7.7 are cumulative and shall be deemed to be in addition to any remedies available at law or in equity which shall include the right to restrain by injunction any violation or threat of violation by any Owner of any of the terms, covenants, or conditions of this Declaration governing Demising Walls and by decree to compel specific performance of any such terms, covenants, or conditions governing Demising Walls, it being agreed that the remedy at law for any breach of any such ten'n, covenant, or

condition governing Demising Walls is not adequate. Notwithstanding the foregoing, no default by any Owner under this Agreement shall entitle any other Adjoining Owner to terminate, cancel, or otherwise rescind this Declaration or any terms, covenants or conditions governing Demising Walls.

- 7.7.2 The Board, without obligation, and in its exclusive discretion, may also notify the Defaulting Owner of the work required to the Demising Wall and demand that it be done within a reasonable and specified period. In the event that the Defaulting Owner fails to carry out such maintenance within said period, the Board shall have the right to enter upon the Dwelling Unit, to cause such work to be done to the Demising Wall and individually charge the cost thereof to such Defaulting Owner, and the costs shall be secured by an Assessment Lien. Notwithstanding the foregoing, in the event of an emergency arising out of the failure of a Defaulting Owner to maintain his, her or its Demising Wall, the Board shall also have the right to immediately enter upon the Dwelling Unit to abate the emergency and individually charge the cost thereof to such Defaulting Owner, and the costs shall be secured by an Assessment Lien.

Article 8 INSURANCE

8.1 Scope of Coverage. Commencing not later than the time of the first conveyance of a Dwelling Unit to a purchaser, other than Declarant or a Declarant Affiliate, the Association shall maintain, to the extent reasonably available, the following insurance coverage:

- 8.1.1 A policy or policies of fire and casualty insurance with extended coverage endorsement, for one hundred percent (100%) of the insurable value (based on current replacement cost) of all Dwelling Units, and all improvements therein made by an Owner, including any fixture, improvement, or betterment installed by a Dwelling Unit Owner to a Dwelling Unit, including floor coverings, cabinets, light fixtures, electrical fixtures, heating or plumbing fixtures, paint, wall coverings windows, and any other item permanently part of or affixed to a Dwelling Unit. The name of the insured under each such policy shall be in form and substance similar to: **The Lofts on Redwood Owner's Association, Inc.**, a Utah nonprofit corporation, for the use and benefit of the individual Members and mortgagees, as their interests may appear. The Association shall, by Assessment, set aside an amount equal to the amount of the Association's property insurance policy deductible or \$10,000.00, whichever is less.

- 8.1.1.1 Non-Uniform Assessment for Insurance Premiums.
Notwithstanding anything to the contrary of the other provisions

of this Declaration, the Association shall have the authority to apportion the cost of insurance premiums in a non-uniform manner, so long as the apportionment is reasonably related to the actual cost of insurance of any particular Dwelling Unit. Further, the Association may establish specialized Rules for administering the insurance assessment.

- 8.1.2 Property insurance on the Common Areas insuring against all risk of direct physical loss insured against, in an amount equal to the maximum insurable replacement value of the Common Areas, as determined by the Board; provided however, that the total amount of insurance shall not be less than one hundred percent (100%) of the current replacement cost of the insured property (less reasonable deductibles), exclusive of the land, excavations, foundations and other items normally excluded from a property policy.
- 8.1.3 Comprehensive general liability insurance, including medical payments insurance, in an amount determined by the Board, but not less than \$1,000,000 Such insurance shall cover all occurrences commonly insured against for death, bodily injury and property damage arising out of or in connection with the use, ownership or maintenance of the Common Areas and other portions of the Project which the Association is obligated to maintain under this Declaration, and shall also include hired automobile and non-owned automobile coverage's with cost liability endorsements to cover liabilities of the Owners as a group, to an Owner;
- 8.1.4 Worker's compensation insurance to the extent necessary to meet the requirements of applicable law;
- 8.1.5 Fidelity bonding of the Board and employees of the Association having control of or access to, the funds of the Association with loss coverage ordinarily not less than the maximum amount of funds of the Association over which the principal(s) under the bond may reasonably be expected to have control or access at any time;
- 8.1.6 Errors and omissions insurance coverage for the Board; and
- 8.1.7 Such other insurance as the Board shall determine, from time to time, to be appropriate to protect the Association or the Owners.
- 8.1.8 Each insurance policy purchased by the Association shall, to the extent reasonably available, contain the following provisions:

- 8.1.8.1 The insurer issuing such policy shall have no rights of subrogation with respect to claims against the Association or its agents, servants or employees, or with respect to claims against Owners or Occupants;
- 8.1.8.2 No act or omission by any Owner will void the policy or adversely affect recovery on the policy;
- 8.1.8.3 The coverage afforded by such policy shall not be brought into contribution or peroration with any insurance which may be purchased by Owners, Occupants or Mortgagees;
- 8.1.8.4 A "severability of interest" endorsement which shall preclude the insurer from denying the claim of an Owner or Occupant because of the negligent acts of the Neighborhood Association or other Owners or Occupants;
- 8.1.8.5 Statement naming the Association as the insured; and

8.1.8.6 For policies of hazard insurance, a standard mortgagee clause providing that the insurance carrier shall notify any Mortgagee named in the policy at least thirty (30) days in advance of the effective date of any substantial modification, reduction or cancellation of the policy.

8.2 Certificates of Insurance. An insurer which has issued an insurance policy under this Article shall issue a certificate or a memorandum of insurance to the Association and, upon request, to any Owner or Mortgagee. Any insurance obtained pursuant to this Article shall not be cancelled until thirty (30) days after notice of the proposed cancellation has been mailed to the Association and to each Owner and each Mortgagee to whom certificates of insurance have been issued.

8.3 Payment of Premiums. The premiums for any insurance obtained by the Association pursuant to this Declaration shall be included in the budget of the Association and shall be paid by the Association.

8.4 Payment of Insurance Proceeds. With respect to any loss to the Common Areas covered by property insurance obtained by the Association, the loss shall be adjusted with the Association, and the insurance proceeds shall be payable to the Association and not to any Mortgagee. Subject to the provisions of Section 8.5, the proceeds shall be disbursed for the repair or restoration of the damage to the Common Areas.

8.5 Repair and Replacement of Damaged or Destroyed Property. Any portion of the Common Areas which is damaged or destroyed shall be repaired or replaced promptly by the Association unless repair or replacement would be illegal under any state or local health or safety statute or ordinance. The cost of repair or replacement in excess of insurance proceeds and reserves shall be paid by the Association. If the entire Common Areas is not repaired or

replaced, insurance proceeds attributable to the damaged Common Areas shall be used to restore the damaged area to a condition which is not in violation of any state or local health or safety statute or ordinance and the remainder of the proceeds shall either: (i) be retained by the Association as an additional capital reserve; (ii) be used for payment of operating expenses of the Association, if such action is approved by the affirmative vote or written consent or any combination thereof, of Association Members representing more than fifty percent (50%) of the votes in the Association; or (iii) shall be distributed proportionally, based upon the square footage of said Owner's Dwelling Unit to the total square footage of all Dwelling Units per Association Membership to the Owners of each Dwelling Unit as their interests appear.

8.6 Owner Responsibility to Insure; Primacy of Owner Insurance. Except where otherwise provided herein, Owners of an individual Dwelling Unit are solely responsible to maintain, repair, replace and insure personal property maintained on their individual Dwelling Unit. Further, Owners are solely responsible to insure against personal liability for losses arising within their Dwelling Unit.

8.6.1 Anything to the contrary notwithstanding, the insurance coverage of an Owner shall be primary and the insurance of the Association shall be secondary for losses of items that are the responsibility of the unit owner to maintain, repair or replace. All Owners shall maintain a policy in the minimum amount of \$10,000 for Coverage "A" Building. If the Owner fails to maintain insurance, the Owner will be responsible for the first \$10,000 of Owner losses on any claim for losses that emanate from within their Dwelling Unit, or if the Owner has no such insurance, the Association need not tender the claim to the Association's insurer.

8.6.2 A Dwelling Unit Owner who owns a Dwelling Unit that has suffered Dwelling Unit damage as part of a covered loss is responsible for said Owner's share of any deductible applicable to the Association's property insurance policy, in an amount calculated by applying the Dwelling Unit damage percentage for that unit to the amount of the deductible under the property insurance policy of the Association of Dwelling Unit Owners.

8.6.3 If a Dwelling Unit Owner does not pay the amount required under Subsection 8.6.2 above, within thirty (30) days after substantial completion of the repairs to said Owner's Unit, the Association may levy an Assessment against the Dwelling Unit Owner for that amount, file a notice of lien, and foreclose the same as provided for in Subsection 6.8.5 of this Declaration.

Article 9 MORTGAGEE REQUIREMENTS

9.1 Subordination of Lien. The Assessment or claim against a Dwelling Unit for unpaid Assessments or charges levied by the Association pursuant to this Declaration shall be subordinate to the First Mortgage affecting such Dwelling Unit, and the First Mortgagee

thereunder which comes into possession of, or which obtains title to such Dwelling Unit, shall take the same free of such lien or claim for unpaid Assessments or charges, but only to the extent of Assessments or charges which have accrued prior to foreclosure of the First Mortgage, the exercise of a power of sale available thereunder, or the taking of a deed or assignment in lieu of foreclosure. No Assessment, charge, Assessment Lien, or claim which is described in the preceding sentence as being subordinate to a First Mortgage, or as not to burden a First Mortgagee, which comes into possession or which obtains title to a Dwelling Unit, shall be collected or enforced by the Association from or against a First Mortgagee, a successor in title to a First Mortgagee, or the Dwelling Unit affected or previously affected by the First Mortgage concerned. The provisions of this section 9.1 shall be in addition to the rights of a First Mortgagee under Section 6.8.3.

9.2 Payment of Taxes. In the event any taxes or other charges which may or have become a lien on the Common Areas are not timely paid, or in the event the required hazard insurance described in Section 8.1 lapses, is not maintained, or the premiums therefore are not paid when due, any First Mortgagee or any combination of First Mortgagees may jointly or singly, pay such taxes or premiums or secure such insurance.

9.3 Priority. No provision of this Declaration or the Articles gives or may give a Association Member or any other party priority over any rights of Mortgagees pursuant to their respective Mortgages in the case of a distribution to Association Members of insurance proceeds or condemnation awards for loss to or taking of all or any part of a Dwelling Unit, or the Common Areas. All proceeds or awards shall be paid directly to any Mortgagees of Record, as their interests may appear.

Article 10 CONDEMNATION

10.1 Notice. Whenever all or any part of the Common Areas shall be taken or conveyed in lieu of and under threat of condemnation, each Member shall be entitled to notice of the taking; but the Association shall act as attorney-in-fact for all Members in the proceedings incident to the condemnation proceeding, unless otherwise prohibited by law.

10.2 Partial Condemnation; Distribution of Award; Reconstruction. The award made for such taking shall be payable to the Association as trustee for all Members to be disbursed as follows: If the taking involves a portion of the Common Areas on which improvements have been constructed, then, unless within sixty (60) days after such taking Declarant and Members representing at least sixty-seven percent (67%) of the total votes of the Association shall otherwise agree, the Association shall restore or replace such improvements so taken on the remaining land included in the Common Areas to the extent lands are available therefore, in accordance with plans approved by the Board and the **The Lofts on Redwood Design Review Committee**. If such Improvements are to be repaired or restored, the provisions above regarding the disbursement of funds in respect to casualty damage or destruction which is to be repaired shall apply. If the taking does not involve any

Improvements on the Common Areas, or if there is a decision made not to repair or restore, or if there are net funds remaining after any such restoration or replacement is completed, then such award or net funds shall be distributed to Members in proportion to their respective Membership interests, first to the Mortgagees and then to the Members.

10.3 Complete Condemnation. If all of the Project is taken, condemned, sold, or otherwise disposed of in lieu of or in avoidance of condemnation, then the regime created by this Declaration shall terminate, and the portion of the condemnation award attributable to the Common Areas and to an Owner's Dwelling Unit shall be distributed to Members based upon the relative value of the Owner's Dwelling Unit to all of the Dwelling Units prior to the condemnation.

Article 11 TERM, TERMINATION AND AMENDMENT

11.1 Term; Method of Termination. This Declaration shall be effective upon the date of Recordation hereof and, as amended from time to time, shall continue in full force and effect for a term of fifty (50) years from the date this Declaration is Recorded. From and after said date, this Declaration, as amended, shall be automatically extended for successive periods of ten (10) years each, unless there is an affirmative vote to terminate this Declaration by the then Association Members casting one hundred percent (100%) of the total votes cast at an election held for such purpose or otherwise approved in writing within six (6) months prior to the expiration of the initial effective period hereof or any ten-year extension. If the necessary votes and consents are obtained, the Board shall cause to be Recorded a certificate of termination, duly signed by the President or Vice President and attested by the Secretary or Assistant Secretary of the Association, with their signatures acknowledged. Thereupon these covenants shall have no further force and effect, and the Association shall be dissolved pursuant to the terms set forth in its Articles.

11.2 Amendments. This Declaration may be amended by Recording a certificate of amendment, duly signed and acknowledged by and on behalf of the Neighborhood Association ("Certificate of Amendment"). The Certificate of Amendment shall set forth in full the amendment adopted and, except as provided elsewhere in this Declaration, shall certify that at a meeting duly called and held pursuant to the provisions of the Articles and Bylaws or by separate written ballot without a meeting, the Association Members casting at least sixty seven percent (67%) of the total votes of the Association (one vote per Dwelling Unit) at the election voted affirmatively for the adoption of the amendment. So long as the Declarant is the Owner of any Dwelling Unit in the Project, this Declaration may be amended or terminated only with the written approval of the Declarant.

11.3 Unilateral Amendments. Declarant alone may amend or terminate this Declaration prior to the closing of a sale of the first Dwelling Unit. Notwithstanding anything contained in this Declaration to the contrary, this Declaration may be amended unilaterally at any time and from time to time by Declarant (a) if such amendment is necessary to bring any

provision hereof into compliance with any applicable governmental statute, rule, or regulation or judicial determination which shall be in conflict therewith; or (b) if such amendment is reasonably necessary to enable any reputable title insurance company to issue title insurance coverage with respect to a Dwelling Unit subject to this Declaration; provided, however any such amendment shall not adversely affect the title to any Owner's property unless any such Owner shall consent thereto in writing. Further, so long as the Declarant's Class B Membership in the Association exists, Declarant may unilaterally amend this Declaration for any other purpose; provided, however, any such amendment shall not materially adversely affect the substantive rights of any Owner hereunder, nor shall it adversely affect title to any property without the consent of the affected Owner.

11.4 Right of Amendment if Requested by Governmental Agency or Federally Chartered Lending Institutions. Anything in this Article or Declaration to the contrary notwithstanding, Declarant 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 the Utah 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 by any federally chartered lending institution as a condition precedent to lending funds upon the security of any Dwelling Unit or any portions thereof. Any such amendment shall be effected by the Recordation by Declarant of a Certificate of Amendment duly signed by or on behalf of the members, authorized agents, or authorized officers of Declarant, as applicable, with their signatures acknowledged, specifying the federal, state or local governmental agency or the federally chartered lending institution requesting the amendment and setting forth the amendatory language requested by such agency or institution. Recordation of such a Certificate of Amendment shall be deemed conclusive proof of the agency's or institution's request for such an amendment, and such Certificate of Amendment, when Recorded shall be binding upon all of the Project and all Persons having an interest therein. It is the desire of 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 this Section deletes, diminishes, or alters such control, Declarant alone shall have the right to amend this Declaration to restore such control.

Article 12 GENERAL PROVISIONS

12.1 Enforcement. Violation of any provision of this Declaration may be enforced by the Association or any Owner as a private nuisance. The prevailing party in any court action shall be entitled to an award of costs and reasonable attorneys' fees.

12.2 Interpretation. Except for judicial construction, the Association shall have the exclusive right to construe and interpret the provisions of this Declaration. In the absence of any adjudication to the contrary by a court of competent jurisdiction, the Association's construction

or interpretation of the provisions hereof shall be final, conclusive and binding as to all Persons and property benefited or bound by this Declaration.

12.3 Severability. Any determination by any court of competent jurisdiction that any provision of this Declaration is invalid or unenforceable shall not affect the validity or enforceability of any of the other provisions hereof,

12.4 Perpetuities. If any of the covenants, conditions, restrictions or other provisions of this Declaration shall be unlawful, void or voidable for violation of the rule against perpetuities, then such provisions shall continue only until twenty-one (21) years after the death of the last survivor of the now living descendants of the person holding the office of President of the United States on the date this Declaration is Recorded.

12.5 Change of Circumstances. Except as otherwise expressly provided in this Declaration, no change of conditions or circumstances shall operate to extinguish, terminate or modify any of the provisions of this Declaration.

12.6 Rules and Regulations. In addition to the right to adopt rules and regulations on the matters expressly mentioned elsewhere in this Declaration, the Association shall have the right to adopt, as part of the Association Rules, additional rules and regulations with respect to any other aspects of the Association's rights, activities and duties, provided said additional rules and regulations are not inconsistent with the provisions of the other Project Documents.

12.7 Laws, Ordinances and Regulations.

12.7.1 The covenants, conditions and restrictions set forth in this Declaration and the provisions requiring Owners and other Persons to obtain the approval of the Board or the **The Lofts on Redwood Design Review Committee**, with respect to certain action, are independent of the obligation of the Owners and other Persons to comply with all applicable laws, ordinances and regulations, and compliance with this Declaration shall not relieve an Owner or any other Person from the obligation also to comply with all applicable laws, ordinances and regulations.

12.7.2 Any violation of any state, municipal or local law, ordinance or regulation pertaining to the ownership, occupation or use of any property within the Project is hereby declared to be in violation of this Declaration and subject to any or all of the enforcement proceedings set forth herein.

12.8 References to this Declaration in Deeds. Deeds to, and instruments affecting, any Dwelling Unit, or any other part of the Project, may contain the covenants, conditions and restrictions herein set forth by reference to this Declaration; but regardless of whether any such reference is made in any deed or instrument, each and all of the provisions of this

Declaration shall be binding upon the grantee Owner or other Person claiming through any instrument and his, her or its heirs, executors, administrators, successors and assigns.

12.9 Gender and Number. Wherever the context of this Declaration so requires, any word used in the masculine, feminine or neuter genders shall include each of the other genders. Words in the singular shall include the plural, and words in the plural shall include the singular.

12.10 Captions and Title; Section References; Exhibits. All captions, titles or headings of the Articles and Sections in this Declaration are for the purpose of reference and convenience only and are not to be deemed to limit, modify or otherwise affect any of the provisions hereof, or to be used in determining the meaning or intent thereof. References in this Declaration to numbered Articles, Sections or Subsections, or to lettered Exhibits, shall be deemed to be references to those paragraphs or Exhibits so numbered or lettered in this Declaration, unless the context otherwise requires. Any Exhibits referred to in this Declaration are hereby incorporated herein by reference and fully made a part hereof.

12.11 Notices. If notice of any action or proposed action by the Board or any committee or of any meeting is required by applicable law, the Project Documents or resolution of the Board to be given to any Owner, Lessee or Occupant then, unless otherwise specified in the Project Documents or in the resolution of the Board, or unless otherwise required by law, such notice requirement shall be deemed satisfied if notice of such action, proposed action or meeting is: (a) sent by United States mail to the last known mailing address of the Owner, Lessee or Occupant (as applicable), as shown in the records of the Association; or (b) if no such mailing address is reflected on the records of the Association, then sent by United States mail to the mailing address of the Dwelling Unit (as applicable) on file with the Salt Lake County Assessor's Office; or (c) if there are no such mailing addresses reflected in the records of the Association, and there is no then current address on file with the Salt Lake County Assessor's Office, then sent or given in whatever reasonable manner the Board may elect, which may include, without limitation, publishing the same in any newspaper in general circulation within Salt Lake County, Utah; or (d) by electronic notice, including by text message, e-mail, or by website posting. This Section shall not be construed to require that any notice be given if not otherwise required and shall not prohibit satisfaction of any notice requirement in any other reasonable and appropriate manner. However, in regard to the receiving of any such notice, the Owner of a Dwelling Unit may demand that all notices be provided by mail.

12.12 Indemnification. The Association shall indemnify each and every trustee, board member, and officer of the Association, each and every member of the **The Lofts on Redwood Design Review Committee**, and each and every member of any committee appointed by the Board (including, for purposes of this Section, former officers and directors of the Association, former members of the **The Lofts on Redwood Design Review Committee**, and former members of committees appointed by the Board (collectively "Association Officials" and individually an "Association Official") against any and all expenses, including attorneys' fees, reasonably incurred by or imposed upon an

Association official in connection with any action, suit or other proceeding (including settlement of any suit or proceeding, if approved by the Board serving at the time of such settlement) to which he or she may be a party by reason of being or having been an Association official, unless the liability for such expenses arises out of his or her own intentional misconduct. No Association official shall have any personal liability with respect to any contract or other commitment made by them or action taken by them, in good faith, on behalf of the Association (except indirectly to the extent that such Association official may also be an Association Member and therefore subject to Assessments hereunder to fund a liability of the Association), and the Association shall indemnify and forever hold each such Association official free and harmless from and against any and all liability to others on account of any such contract, commitment or action. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any Association official may be entitled. If the Board deems it appropriate, at its sole discretion; the Association may advance funds to or for the benefit of any Association official who may be entitled to indemnification hereunder to enable such Association official to meet on-going costs and expenses of defending himself or herself in any action or proceeding brought against such Association official by reason of his or her being, or having been, an Association official. In the event it is ultimately determined that an Association official to whom, or for whose benefit, funds were advanced pursuant to the preceding sentence does not qualify for indemnification pursuant to this Section or otherwise under the Articles, Bylaws or applicable law, such Association official shall promptly upon demand repay to the Association the total of such funds advanced by the Association to him or her, or for his or her benefit, with interest (should the Board so elect) at a rate as exclusively determined by the Board from the date(s) advanced until paid.

12.13 No Partition. No Person acquiring any interest in the Property or any part thereof shall have a right to, nor shall any Person seek, any judicial partition of the Common Areas, nor shall any Owner sell, convey, transfer, assign, hypothecate or otherwise alienate any funds or other assets of the Association, except in connection with the sale, conveyance or hypothecation of such Owner's Dwelling Unit (and only appurtenant thereto), or except as otherwise expressly permitted herein. This Section shall not be construed to prohibit the Board from acquiring and disposing of tangible personal property nor from acquiring or disposing of title to real property (other than disposition of title to the Common Areas, which shall be subject to Article 4) which may or may not be subject to this Declaration.

12.14 Number of Days. In computing the number of days for purposes of any provision of this Declaration or the Articles or Bylaws, all days shall be counted including Saturdays, Sundays and holidays; provided however, that if the final day of any time period falls on a Saturday, Sunday or legal holiday, then the final day shall be deemed to be the next day which is not a Saturday, Sunday or legal holiday.

12.15 Notice of Violation. The Association shall have the right to Record a written notice of a violation by any Owner or Occupant of any restriction or provision of the Project Documents. The notice shall be executed and acknowledged by an officer of the

Association and shall contain substantially the following information: (a) the name of the Owner or Occupant; (b) the legal description of the Dwelling Unit against which the notice is being Recorded; (c) a brief description of the nature of the violation; (d) a statement that the notice is being Recorded by the Association pursuant to this Declaration; and (e) a statement of the specific steps which must be taken by the Owner or Occupant to cure the violation. Recordation of a notice of violation shall serve as a notice to the Owner and Occupant, and to any subsequent purchaser of a Dwelling Unit, that there is such a violation. If after the Recordation of such notice, it is determined by the Association that the violation referred to in the notice does not exist or that the violation referred to in the notice has been cured, the Association shall Record a notice of compliance which shall state the legal description of the Dwelling Unit against which the notice of violation was recorded, the Recording data of the notice of violation, and shall state that the violation referred to in the notice of violation has been cured or, if such be the case, that it did not exist. Notwithstanding the foregoing, failure by the Association to Record a notice of violation shall not constitute a waiver of any existing violation or evidence that no violation exists.

12.16 Disclaimer of Representations. While neither the Declarant nor any Declarant Affiliate believes that any of the restrictive covenants contained in this Declaration is or may be invalid or unenforceable for any reason or to any extent, neither the Declarant nor any Declarant Affiliate makes any warranty or representation as to the present or future validity or enforceability of any such restrictive covenant. Any Owner acquiring a Dwelling Unit in reliance on one or more of such restrictive covenants shall assume all risks of the validity and enforceability thereof, and by accepting a deed to Dwelling Unit agrees to hold the Declarant and all Declarant Affiliates harmless therefrom.

12.17 Amendments Affecting Declarant Rights. Notwithstanding any other provision of this Declaration to the contrary, no provision of this Declaration (including but not limited to, this Section) which grants to or confers upon the Declarant or upon any Declarant Affiliate any rights, privileges, easements, benefits or exemptions (except for rights, privileges, easements, benefits, or exemptions granted to or conferred upon Owners generally) shall be modified, amended or revoked in any way, so long as the Declarant, any Declarant Affiliate, or a trustee for the benefit of the Declarant or any Declarant Affiliate owns any portion of the Property, without the express written consent of the Declarant.

12.18 Bulk Service Agreements.

12.18.1 The Board, acting on behalf of the Association, shall have the right, power and authority to enter into one or more Bulk Service Agreements with one or more Bulk Providers (each of which terms is defined below), for such term(s), at such rate(s) and on such other terms and conditions as the Board deems appropriate, all with the primary goals of providing to Owner's and Occupants of a Dwelling Unit, both within the Property, or within one or more portions thereof, cable television, community satellite television, high speed Internet, security monitoring or other electronic entertainment,

information, communication or security services, or any concierge or other personal services: (a) which might not otherwise be generally available to such Owners and Occupants; (b) at rates or charges lower than might otherwise generally be charged to Owners and Occupants for the same or similar services; (c) otherwise on terms and conditions which the Board believes to be in the interests of Owners and Occupants generally; or (d) any combination of the foregoing.

- 12.8.2** If all Dwelling Units within the Property are to be served by a particular Bulk Service Agreement, the Board shall have the option either to: (a) include the Association's costs under such Bulk Service Agreement in the budget for each applicable fiscal year, and thereby include such costs in the Annual Assessments for each such applicable year; or (b) separately bill to each Owner his, her or its proportionate share of the Association's costs under such Bulk Service Agreement, as reasonably determined by the Board, and with such frequency as may be determined by the Board, but no more often than monthly. Such "separate billing" may be made as one or more separate line items on billings or invoices from the Association to the affected Owner(s) for Assessments or Other charges. If not all Dwelling Units within the Property will be served by a particular Bulk Service Agreement, the Board shall have only the billing option described in clause (b) above,
- 12.18.3** Declarant, for each Dwelling Unit, hereby covenants and agrees, and each Owner other than the Declarant, by becoming the Owner of a Dwelling Unit, is deemed to covenant and agree, to pay all amounts levied or charged against or to him, her or it (or his, her or its Dwelling Unit) by the Board pursuant to this Section, and all such amounts: (a) shall be deemed to be a part of the Assessments against the Dwelling Unit (or against or to whose Owners they are levied or charged); (b) with interest, late charges and all costs, including but not limited to reasonable attorney's fees, incurred by the Association in collecting or attempting to collect delinquent amounts, shall be secured by the lien for Assessments established by this Declaration; and (c) as with other Assessments, shall also be the personal obligation of each Person who was an Owner of the Dwelling Unit at the time such amount became due (which personal obligation for delinquent amounts shall not pass to the successors in title of the Owner unless expressly assumed by them unless title is transferred to one or more such successors for purposes of avoiding payment of such amounts or other Assessments or is transferred to a Person controlling, controlled by or under common control with the Owner transferring title).
- 12.18.4** No Owner of a Dwelling Unit covered by a Bulk Service Agreement shall be entitled to avoid or withhold payment of amounts charged by the Board

to such Owner or such Owner's Dwelling Unit under this Section, whether on the basis that such Owner does not use, accept or otherwise benefit from the services provided under such Bulk Service Agreement.

- 12.18.5** "Bulk Provider" means a private, public or quasi-public utility or other company which provides, or proposes to provide, cable television, community satellite television, high speed Internet, security monitoring or other electronic entertainment, information, communication or security services, or concierge or other Personal services, to Owners or Occupants, within the Property, Unit, or within one or more portions thereof, pursuant to a "Bulk Service Agreement" (as defined below).
- 12.18.6** "Bulk Service Agreement" means an agreement between the Association and a Bulk Provider pursuant to which the Bulk Provider would provide cable television, community satellite television, high speed Internet, security monitoring or other electronic entertainment, information, communication or security services, or concierge or other personal services, to Owners or Occupants of a Dwelling Unit.
- 12.18.7** So long as Declarant's Class B Membership exists, the Board shall not, without the approval of Association Members holding at least fifty-one percent (51%) of all Class A votes represented in Person or by proxy at an annual or special meeting of the Association, enter into a Bulk Service Agreement which imposes on the Association or the Association Members any obligation to pay the direct costs of construction of any cables, lines or other facilities or equipment for any cable television, community satellite television, high speed Internet, security monitoring or electronic entertainment, information, communication or security services, but nothing in this Section shall prevent the Board from entering into, or require approval by the Association Members of any Bulk Service Agreement which imposes on the Association or the Association Members installation, connection, service charge or similar charges or fees which do not exceed those generally prevailing at the time within the greater Salt Lake County, Utah., area, or which includes as a component of the monthly fee charged by the Bulk Provider amortization of some or all of its capital costs and related costs in providing services under the Bulk Service Agreement.

IN WITNESS WHEREOF, Declarant has executed this instrument as of the date first set forth above.

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**THE LOFTS ON REDWOOD OWNERS ASSOCIATION,
INC.**

BYLAWS

October 2018

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 OF
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**BYLAWS
OF**

OWNERS ASSOCIATION, INC.,

**ARTICLE I
OFFICES**

Section 1.01. Principal Office. The principal office for the transaction of the business of **The Lofts on Redwood Owners Association, Inc.** (the "Association") shall be located in Salt Lake County, Utah. The Board of Trustees is hereby granted full power and authority to change, from time to time, said principal office from one location to another in said county.

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

**ARTICLE II
DEFINITIONS**

When used in these Bylaws the following terms shall have the meaning indicated:

Section 2.01. Articles or Articles of Incorporation shall mean and refer to the Articles of Incorporation of **The Lofts on Redwood Owners Association, Inc.**

Section 2.02. Association shall mean and refer to **The Lofts on Redwood Owners Association, Inc.**, the Utah Nonprofit Corporation which is created by the filing of the Articles.

Section 2.03. Board shall mean the Board of Trustees unless the context of the sentence in which the term is used clearly denotes another body.

Section 2.04. Common Areas shall mean and refer to all portions of the Property owned by the Association for the common use and enjoyment of the Owners, and shall include:

- 2.04.1** The roofs of each building
- 2.04.2** Such community facilities as may be provided for in the declaration;
- 2.04.3** All other part of the property necessary or convenient to its existence, maintenance, and safety, or normally in common use;
- 2.04.4** All installation, equipment, and lines, if any, now or hereafter located on, over, or under the Common Areas and connected with or related to the furnishing of subdivision utility services such as water, sewage disposal, electricity, and telephone, and which are not owned by or

dedicated to a governmental or quasi-governmental authority or public or private utility company and which are not reserved by Declarant; and

2.04.5 All private roads which are not owned by or dedicated to a governmental or quasi-governmental authority, designated as such on the Plat or as may be added from time to time upon written approval of the Board of Trustees.

Section 2.06. **Common Expenses** shall mean and refer to all sums which are expended on behalf of all the Owners and all sums which are required by the Association to perform or exercise its functions, duties, or rights under the Declaration and these Bylaws, the Management Agreement for operation of the Common Areas, if any, and such rules and regulations as the Association may from time to time make and adopt. By way of illustration but not limitation, Common Expenses shall include: (i) expenses of administration, maintenance, operation, repair and replacement of those elements of the Common Areas that must be maintained and/or replaced on a periodic basis and reserves as may be from time to time established by the Board; (ii) the costs of garbage and snow removal; (iii) expenses agreed upon by the Association, or the Board and lawfully assessed against the owners in accordance with the Declaration and these Bylaws; (iv) expenses declared to be Common Expenses by the Declaration, or the Bylaws, and (v) any valid charge against the Subdivision as a whole.

Section 2.07. **Declarant** shall mean and refer to **Truong Properties, LLC**, a Utah Limited Liability Company or any successor or assigns of said company which either by operation of law or through a voluntary conveyance, transfer, or assignment, comes to stand in the same relation to the Properties or the Common Areas as did its predecessor.

Section 2.08. **Declaration** shall mean and refer to the instrument entitled "Declaration of Covenants, Conditions, Easements and Restrictions of **The Lofts on Redwood** filed for record in the Office of the County Recorder of Salt Lake County, Utah.

Section 2.09. **Dwelling Unit** shall mean a townhome ("Unit") to be used for residential, rather than for commercial purposes, together with its proportional undivided interest in the Common Areas and facilities associated with each such Unit.

Section 2.10. **The Lofts on Redwood** shall mean and refer to **The Lofts on Redwood** Units consisting of certain Dwelling Units of **The Lofts on Redwood**, and all Common Areas, as shown on the Plat and governed by the Declaration.

Section 2.11. **Member** shall mean and refer to every person who holds membership in the Association.

Section 2.12. **Owner** shall mean and refer to the person who is the owner of record in the office of the County Recorder of Salt Lake County, Utah, whether one or more persons or entities, of a fee title in any Unit, including the Declarant, and contract sellers, but excluding those having such interest merely as security for the performance of an obligation unless and until such party has required title pursuant to foreclosure or any arrangement or proceeding in lieu thereof

Section 2.13. **Property or Properties** shall mean and refer to the real property described in the Declaration and all Common Areas.

Section 2.14. **Trustee** shall mean the Directors of the Association with rights and duties as defined in Articles of Incorporation, the Declaration and herein.

ARTICLE III STATUS OF ASSOCIATION

Section 3.01. Status and General Authority of Association. The Association has been incorporated under the laws of the State of Utah as a Nonprofit Corporation. The Association, subject to the rights and duties of the Owners as set forth in the Declaration and these Bylaws, shall be responsible for the exclusive management and control of the Common Areas and all improvements thereon (including the Common Facilities), and shall keep the same in a good, clean, attractive, safe, and sanitary condition, order, and repair. The Association shall be responsible for the maintenance and repair of the Common Areas including, without limitation, utility lines, common facilities, and all improvements and other items located within or used in connection with the Common Areas. All goods and services procured by the Association in performing its responsibilities under this Section shall be paid for with funds from the Common Expenses fund.

ARTICLE IV MEMBERSHIP

Section 4.01. Qualifications. Pursuant to the Articles of Incorporation and Declaration of Covenants, Conditions, Easements and Restrictions, every person who is an Owner, including the Declarant, shall be a Member of the Association. Membership in the Association shall be mandatory, shall be appurtenant to a Unit in which the Owner has the necessary interest, and shall not be separated from the Unit to which it appertains.

Section 4.02. Privileges of Members. All Members shall be equally privileged to attend all Board, Committee and Membership meetings and take part in all Membership meetings, and shall be eligible to hold any office within the Association, so long as they comply with these Bylaws, including the payment of assessments to the Association.

Section 4.03. Membership Certificates. There shall be no certificates of membership in the Corporation.

Section 4.04. Voting Rights. The voting rights of Members shall be as described in the Articles of Incorporation and Declaration.

Section 4.05. Lists of Owners. The Association shall maintain up-to-date records showing the name of each person who is an Owner, the address of such person, and the Unit which is owned by him or her. In the event of any transfer of a fee or undivided fee interest in a Unit, either the transferor or transferee shall furnish the Association with evidence establishing that the transfer has occurred and that the deed or other instrument accomplishing the transfer is of record in the office of the County Recorder of Salt Lake County, Utah. The Association may, for all purposes, act and rely upon the information concerning Owners and Unit ownership which is thus acquired by it, or at its option, the Association may act and rely on current ownership information respecting any Unit which is obtained from the office of the County Recorder of Salt Lake County, Utah. The address of an Owner shall be deemed to be the address of the Unit owned by such person unless the Association is otherwise advised.

Section 4.06. Obstruction of Common Areas. There shall be no obstructions of the Common Areas by the Owners, their tenants, lessees, guests or invitees without the prior written consent of the Board. The Board may by Rules and Regulations prohibit or limit the use of the Common Areas as may be reasonably necessary for protecting the interests of all the Owners, or protecting a Unit, or the Common Areas. Nothing shall be kept or stored in or upon any part of the Common Areas without the prior written consent of the Board, except as specifically provided herein. No improvements temporary or permanent in nature shall be altered, constructed or removed from the Common Areas except upon the prior written consent of the Board, and except as provided herein.

Section 4.07. Compliance with Rules and Regulations. No owner shall violate the rules and regulations regarding use of the Common Areas as adopted from time to time by the Association.

ARTICLE V MEMBER ASSESSMENTS

Section 5.01. Agreement to Pay Assessment. Each Owner of a Unit who is a Class A Member, by the acceptance of a deed therefor, whether or not it be so expressed in the deed, or by entering into a sale and purchase contract, shall be deemed to covenant and agree with each other and with the Association to pay to the Association annual assessments made by the Association for the purposes provided in the Declaration and these Bylaws, and special assessments for capital improvement, and other matters as provided in the Declaration and these Bylaws. Such assessments shall be fixed, established and collected from time to time in the manner provided in this Article.

Section 5.02. Apportionment of Annual and Special Assessments. Expenses attributable to the Common Areas and to the Subdivision as a whole, shall be apportioned among and assessed, based upon square footage of any such Unit, in equal shares, based on Unit Ownership against all Owners of all Units, as of January 1 of each year. Owners, who acquire a Unit from the Declarant

during the year, shall pay a pro rated share of the assessments made against other Owners who are Class A Members for such year corresponding to the portion of the year such new Owner was an Owner.

Section 5.03. Notice of Annual Assessments and Time for Payment Thereof. Annual assessment shall be made on a calendar year basis, provided the first fiscal year shall commence on the date these Bylaws are formally adopted by the Association and end the following December 31. In the event an installment payment is not made or is late, the entire unpaid balance of the annual assessment will be automatically accelerated and will be due and payable immediately.

Each assessment shall bear Interest at the rate of eighteen percent (18%) per annum from the date it becomes due and payable until paid. The Board of Trustees shall have the power and authority to change this interest rate annually in accordance with the prevailing rates, though it shall not be obligated to do so. Moreover, the Association may impose a late payment service charge equal to or greater than twenty-five dollars (\$25.00), or ten (10%) of the delinquent assessment, for each delinquent monthly assessment.

Each time legal title to a Unit passes from one person to another, within thirty (30) days after the effective date of such title transaction, the new Owner shall pay to the Association, in addition to any other required amounts, the sum of three-hundred dollars (\$300.00) or such other reasonable sum as the Association deems proper. The provisions for payment of assessments shall apply to the collection of such sum.

Section 5.04. Inadequate Funds. In the event that the Common Expense fund proves inadequate at any time for whatever reason, including non-payment of any Owner's assessment, the Association may levy additional assessments in accordance with the procedure set forth below, except that the vote therein specified shall be unnecessary.

Section 5.05. Special and/or Reserve Analysis Assessments. In addition to the Annual Assessments authorized by this Article, the Association may, at any time and from time to time, upon affirmative vote of at least two-thirds of Owners of the Association, including Declarant, levy Special Assessments and/or a Reserve Analysis Assessment, payable over such periods as the Association 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 Common Areas or any part thereof, or for any other expenses incurred or to be incurred as provided in the Declaration or these Bylaws (including, without limitation, Common Expenses). This Section shall not be construed as an independent source of authority for the Association to incur expenses, but shall be construed to prescribe the manner of assessing for expenses authorized by other Sections hereof. Any amounts assessed pursuant hereto shall be assessed equally, on a square footage basis, to Owners. Notice in writing of the amount of such special assessments shall be given, which notice shall set forth the time for payment which shall be not less than thirty (30) days after such date.

**ARTICLE VI
MEETINGS OF MEMBERS**

Section 6.01. Place of Meetings. All meetings of members shall be held either at the principal office of the Association in Salt Lake County, or at any other place within the State of Utah, which may be designated by the Board of Trustees pursuant to authority hereinafter granted to said Trustees.

Section 6.02. Annual Meetings. The annual meetings of Members shall be held on the 1st Wednesday of May each year at 8:00 o'clock p.m., except as otherwise may be annually determined by the Board of Trustees, provided, however, that should said day fall upon a legal holiday, then any such annual meeting of Members shall be held at the same time and place on the next business day thereafter ensuing which is not a legal holiday. At such meetings the Board of Trustees shall be elected, reports of the affairs of the Association shall be considered, and any other business may be transacted which is within the powers of the Members.

Written notice of each annual meeting shall be given to each Member entitled to vote, either personally or by mail or other means of written communication, charges prepaid, addressed to such Member at his address appearing on the books of the Association or given by him to the Association for the purpose of notice. If a Member gives no address, notice shall be deemed to have been given if sent by mail or other means of written communication addressed to the place where the principal office of the Association is situated, or if published at least once in some newspaper of general circulation in the county in which said principal office and the Subdivision is located. All such notices shall be sent to each Member entitled thereto not less than ten (10) days before each annual meeting, and shall specify the place, the day and the hour of such meeting, and shall state such other matters, if any, as may be expressly required by statute.

Section 6.03. Special Meetings. Special meetings of the Members, for any purpose or purposes whatsoever may be called at any time by the President, the Board of Trustees, or, by one or more members holding thirty percent (30%) of the voting power of the Association. Except in special cases where other express provision is made by statute, notice of such special meetings shall be given in the same manner as for annual meetings of Members. Notices of any special meeting shall specify, in addition to the place, day and hour of such meeting, the general nature of the business to be transacted.

Section 6.04. Adjourned Meetings and Notice Thereof. Any Members' meeting, annual or special, whether or not a quorum is present, may be adjourned from time to time by the vote of a majority of the Members represented at the meeting in person or by proxy, but in the absence of a quorum no other business may be transacted at such meeting.

Section 6.05. Voting. The majority vote of Members represented at the meeting entitled to vote on the subject matter shall be the act of the Membership unless a greater number of votes is otherwise required by the laws of the State of Utah, or the Articles of Incorporation or the Bylaws of this Association, and provided a quorum is present at the meeting.

Section 6.06. Quorum. The presence in person or represented by proxy of a majority of the Owners shall constitute a quorum at any meeting of Members. The vote of a majority of the votes entitled to be cast by the Members present or represented by proxy at a meeting at which a quorum was initially present shall be necessary for the adoption of any matter voted on by the Members. If a quorum is not present at the first meeting or any subsequent meeting, another meeting may be called at which a quorum shall be one-half of the quorum which was required at the immediately preceding meeting. No such subsequent meeting shall be held more than forty-five (45) days following the immediately preceding meeting.

Section 6.07. Consent of Absentees. The transactions of any meeting of Members, however called or noticed, or wherever held, either annual or special, shall be as valid as a meeting duly held after regular call and notice, if a quorum is present either in person or by proxy, and if, either before or after the meeting, each of the Members entitled to vote, not present in person or by proxy, signs a written waiver of notice, or a consent to the holding of such meeting, or an approval of the minutes thereof. All such waivers, consents or approvals shall be filed with the corporate records or made a part of the minutes of the meeting.

Section 6.08. Action Without Meeting. Any action which under any provision of the Utah Nonprofit Corporation and Community Association Act may be taken at a meeting of the Members, may be taken without a meeting if authorized by a writing filed with the Secretary of the Association signed by all of the persons who would be entitled to vote upon such action at a meeting.

Section 6.09. Proxies. Members may vote in person or by proxy; provided, however, that no proxy shall be valid unless signed by the Owner or his, her or its duly authorized attorney-in-fact, dated, and filed with the Secretary of the Association prior to any meeting for which it is to be effective. A proxy is valid for eleven (11) months from its date of execution, unless a different time period is expressly provided in the proxy.

ARTICLE VII BOARD OF TRUSTEES

Section 7.01. Powers. Subject to limitations of the Articles of Incorporation, the Declaration, the Utah Community Association Act, and the Utah Revised Nonprofit Corporation Act, as to actions which shall be authorized or approved by the Members, all corporate powers shall be exercised by or under the authority of the Board of Trustees of the Association. All Platted Common Areas shall be managed by a governing body, which shall be called the Board of Trustees. Without prejudice to such general powers, but subject to the same limitations, it is hereby expressly declared that the Board of Trustees Members shall have the following powers, to wit:

- 7.01.1** To select and remove all the other officers, agents and employees of the Association, prescribe such powers and duties for them as may not be inconsistent with law, or with the Articles of Incorporation, the Declaration, or these Bylaws, fix their compensation, if any, and require from them security for faithful service;

- 7.01.2** To conduct, manage and control the affairs of the Association, and to make such rules and regulations therefor not inconsistent with law, or with the Articles of Incorporation, the Declaration or these Bylaws, as they may deem proper;
- 7.01.3** To change, from time to time, the principal office for the transaction of the business of the Association, from one location to another, as provided in Section 1.01; to fix and locate, from time to time, one or more subsidiary offices of the Association within the State of Utah as provided in Section 1.02 hereof; and; to designate any place within Salt Lake County, State of Utah for the holding of any Members meeting or meetings;
- 7.01.4** To admit new Members or terminate the membership of existing Members;
- 7.01.5** To appoint a Design Review Committee and other Committees; to delegate to the Committees any of the powers and authority of the Board in the management of the affairs of the Association, except the power to adopt, amend or repeal Bylaws; and to delegate to the Architectural Committee the power and authority granted to such Design Review Committee in the Declaration and Bylaws;
- 7.01.6** Without the vote or consent of the Owners or of any other person(s), to grant or create, on such terms as it deems advisable, utility and similar easements over, under; across, and through the Common Areas;
- 7.01.7** To execute and record, on behalf of all the Owners, any amendment to the Declaration or plat map which has been approved by the vote or consent necessary to authorize such amendment.
- 7.01.8** To sue and be sued;
- 7.01.9** To enter into contracts which in any way concern the Common Areas, so long as any vote or consent of the Owners necessitated by the subject matter of the agreement has been obtained;
- 7.01.10** To convey or transfer any interest in real property authorized by the Owners having an interest therein;
- 7.01.11** To purchase, otherwise acquire, and accept title to, any interest in real property, so long as such action has been authorized by any vote or consent which is necessary under the circumstances.

- 7.01.12 To license persons not otherwise entitled to use the Common Areas, to use the same from time to time as the Trustees deems appropriate upon payment of fees prescribed by it to help defray the cost of maintenance thereof;
- 7.01.13 To borrow money, provided that no indebtedness for borrowed funds shall exceed at any given time the sum of \$10,000.00 without the prior vote or approval of the Association at a meeting duly called and convened at which a quorum is present;
- 7.01.14 To promulgate such reasonable rules and regulations, and procedures as may be necessary or desirable to aid the Board in carrying out any of its functions, and to insure that the Subdivision is maintained and used in a manner consistent with the interests of the Owners;
- 7.01.15 To perform any other acts and to enter into any other transactions which may be reasonably necessary for the Board to perform its functions as the agent of the Association; and
- 7.01.16 To hire a professional manager, or management company, to perform those duties and obligations of the Board of Trustees that is properly delegable under the Declaration, these Bylaws and under Utah law.

Any instrument executed by the Board of Trustees that recites facts which, if true, would establish the Trustees' power and authority to accomplish thereby, shall conclusively establish said power and authority in favor of any person who in good faith, and for value, relies upon said instrument.

Section 7.02. Number and Qualification of Board of Trustees Members. The authorized number of Members of the Board of Trustees of the Association shall be three (3) until changed by a Resolution of the Board amending this Section.

Section 7.03. Election Term of Office. From and after the first annual meeting of the Members, the terms of office of the Trustees shall be staggered. At the first annual meeting, the Members shall elect one-third (1/3) of the trustees for a term of one (1) year, one-third (1/3) of the Trustees for a term of two (2) years, and one-third (1/3) of the Trustees for a term of three (3) years; and at each annual meeting thereafter, the Members shall elect one-third (1/3) of the total number of Trustees for a term of three (3) years. The Board of Trustees Members shall be elected, as set forth above, at each annual meeting of Members, but if any such annual meeting is not held, or the Board of Trustees Members are not elected there at, the Board of Trustees Members may be elected at any special meeting of Members held for that purpose. All Board of Trustees Members shall hold office until their respective successors are elected.

Section 7.04. Vacancies. Vacancies in the Board of Trustees may be filled by a majority of the remaining Board of Trustees Members, though less than a quorum, or by a sole remaining Board of Trustees Member, and each Board of Trustees Member so elected shall hold office until his successor is elected at an annual or special meeting of the Members.

A vacancy or vacancies in the Board of Trustees shall be deemed to exist in case of the death, resignation or removal of any Board of Trustees Member, or if the authorized number of Board of Trustees Members be increased, or if the Members fail at any annual or special meeting of Members at which any Board of Trustees Member or Board of Trustees Members are elected, to elect the full authorized number of Board of Trustees Members to be voted for at that meeting.

A Trustee may be removed from the Board, either with or without cause, by a majority of Owners entitled to vote, at any regular or special meeting of the Board.

No reduction of the authorized number of Board of Trustees Members shall have the effect of removing any Board of Trustees Member prior to the expiration of his term of office.

Section 7.05. Place of Meeting. Meetings of the Board of Trustees shall be held at any place within the State of Utah which has been designated from time to time by resolution of the Board of Trustees or by written consent of all Members of the Board of Trustees. In the absence of such designation, meetings shall be held at the principal office of the Association.

Section 7.06. Organization Meeting. Immediately following each annual meeting of Members, the Board of Trustees shall hold a regular meeting for the purpose of organization, election of officers, and the transaction of other business. Notice of such meeting is hereby dispensed with.

Section 7.07. Other Regular Meetings. Other regular meetings of the Board of Trustees are hereby dispensed with and all business conducted by the Board of Trustees shall be conducted at special meetings.

Section 7.08. Special Meetings. Special meetings of the Board of Trustees for any purpose or purposes shall be called at any time by the President or, if he is absent or unable or refuses to act, by any two Board of Trustees Members.

Written notice of the time and place of special meetings shall be delivered personally to each Board of Trustees Member, or sent to each Board of Trustees Member by mail or by other form of written documentation, charges prepaid, addressed to him at his address as it is shown upon the records of the Association, or if it is not so shown on such records, or is not readily ascertainable at the place in which the meetings of Board of Trustees Members are regularly held, then to said Trustees last known address. In case such notice is mailed, it shall be deposited in the United States mail at least seventy-two (72) hours prior to the time of the holding of the meeting. In case such notice is delivered personally, it shall be so delivered at least twenty-four (24) hours prior to the time of the holding of the meeting. Such mailing, telegraphing or delivering as above provided shall be due, legal and personal notice to such Board of Trustees Member.

Section 7.9. Waiver of Notice. The transactions of any meeting of the Board of Trustees, however called and noticed or wherever held, shall be as valid as though had at a meeting duly held after regular call and notice, if a quorum be present, and if, either before or after the meeting, each of the Board of Trustees Members not present signs a written waiver of notice, or a consent to holding such meeting, or an approval of the minutes thereof. All such waivers, consents or approvals shall be filed with the Association's records or made a part of the minutes of the meeting.

Section 7.10. Quorum. A majority of the authorized number of Board of Trustees Members shall be necessary to constitute a quorum for the transaction of business, except to adjourn as hereinafter provided. Every act or decision done or made by a majority of the Board of Trustees Members present at a meeting duly held at which a quorum is present shall be regarded as the act of the Board of Trustees, unless a greater number be required by law or by the Articles of incorporation.

Section 7.11. Adjournment. A quorum of the Board of Trustees may adjourn any Board of Trustees meeting to meet again at a stated day and hour; provided, however, that in the absence of a quorum, a majority of the Board of Trustees Members present at any Board of Trustees meeting, either regular or special, may adjourn from time to time until the time fixed for the next regular meeting of the Board of Trustees.

Section 7.12. Fees and Compensation. Board of Trustees Members shall not receive any stated salary for their services as Board of Trustees Members, but, by resolution of the board, a fixed fee, with or without expenses of attendance, may be allowed for attendance at each meeting. Nothing herein contained shall be construed to preclude any Board of Trustees Member from serving the Association in any other capacity as an officer, agent, employee, or otherwise, and receiving compensation thereof.

Section 7.13. Action Without Meeting. Any action required or permitted to be taken by the Board of Trustees under any provision of the Utah Nonprofit Association and Community Association Act, the Declaration, and under these Bylaws, may be taken without a meeting if all of the Board of Trustees Members of the Association shall individually or collectively consent in writing to such action. Such written consent or consents shall be filed with the minutes of the proceedings of the Board of Trustees.

ARTICLE VIII OFFICERS

Section 8.01. Officers. The officers of the Association shall be a President, a Secretary, and a Treasurer. The Association may also have, at the discretion of the Board of Trustees, such other officers as may be appointed in accordance with the provisions of section 8.03. One person may hold two or more offices, except those of President and Secretary.

Section 8.02. Election. The officers of the Association, except such officers as may be appointed in accordance with the provisions of Section 8.03 or section 8.05, shall be chosen

annually by the Board of Trustees, and each shall hold his office until he shall die, resign or be removed or otherwise disqualified to serve, or his successor shall be elected and qualified.

Section 8.03. Subordinate Officers. The Board of Trustees may appoint such other officers as the business of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as are provided in the Bylaws or as the Board of Trustees may from time to time determine.

Section 8.04. Removal and Resignation. Any officer may be removed, either with or without cause, by a majority of the Board of Trustees at any regular or special meeting of the Board, or, by an officer upon whom such power of removal may be conferred by the Board of Trustees.

Any officer may resign at any time by giving written notice to the Board of Trustees or to the President, or to the Secretary of the Association. Any such resignation shall take effect at the date of the 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 8.05. Vacancies. A vacancy in any office because of death, resignation, removal, disqualification or any other cause shall be filled in the manner prescribed in these Bylaws for regular appointments to such office.

Section 8.06. President. The President shall be the Chief Executive Officer of the Association and shall, subject to the control of the Board of Trustees, have general supervision, direction and control of the business and officers of the Association. The President shall preside at all meetings of the Members and at all meetings of the Board of Trustees. He shall be ex officio a member of all the standing Committees, and shall have the general powers and duties of Management usually vested in the office of the President of an Association, and shall have such other powers and duties as may be prescribed by the Board of Trustees or these Bylaws.

Section 8.07. Secretary. The Secretary shall, keep, or cause to be kept, a book of minutes at the principal office or such other place as the Board of Trustees may order, of all meetings of the Board of Trustees and Members, with the time and place of holding, whether regular or special, and if special, how authorized, the notice thereof given, the names of those present at Board of Trustees Members' meetings, the number of Members present or represented at Members' meetings and the proceedings thereof.

The Secretary shall keep, or cause to be kept, at the principal office a register, showing the names of the Members and their addresses,

The Secretary shall give, or cause to be given, notice of all the meetings of the Members and of the Board of Trustees required by these Bylaws or by law to be given (provided, however, that in the event of the absence or disability of the Secretary, such notice may be given by any other officer of the Association), and shall have such other powers and perform such other duties as may be prescribed by the Board of Trustees or the Bylaws.

Section 8.08. Treasurer. The Treasurer shall keep and maintain, or cause to be kept and maintained, adequate and correct accounts of the properties and business transactions of the Association, including accounts of its assets, liabilities, receipts, disbursements, and shall deposit all monies and other valuables in the name and to the credit of the Association with such depositories as may be designated by the Board of Trustees or, in the absence of such designation, as may be selected by the Treasurer. The Treasurer shall receive and keep account of all fees, monies and dues belonging to the Association, shall disburse the funds of the Association as may be ordered by the Board of Trustees or the President, shall make, sign and endorse in the name of the Association all checks, drafts, notes, and other orders for the payment of money and payout and dispose of such under the direction of the Board of Trustees and the President, shall render to the President and Board of Trustees, whenever they request it, an account of all of his transactions as Treasurer and of the financial condition of the Association, and shall have such other powers and perform such other duties as may be prescribed by the Board of Trustees or the Bylaws.

ARTICLE IX MISCELLANEOUS

Section 9.01. Inspection of Corporate Records. The books of account, the Membership register and minutes of proceedings of the Members and the Board of Trustees shall be open to inspection upon the written demand of any Member at any reasonable time, and for a purpose reasonably related to his interests as a member. Such inspection may be made in person or by agent or attorney, and shall include the right to make extracts. Demand of inspection shall be made in writing upon the President or Secretary.

Section 9.02. Checks, Drafts, Etc. All checks, drafts or other orders for payment of money, notes or other evidences of indebtedness, issued in the name of or payable to the Association, shall be signed or endorsed by the Treasurer and/or by such person or persons and in such manner as, from time to time, shall be determined by resolution of the Board of Trustees.

Section 9.03. Execution of Contracts. The Board of Trustees, except as otherwise provided in these Bylaws, may authorize any officer or officers, agent or agents, to enter into any contract or execute any instrument in the name of, and on behalf of the Association, and such authority may be general or confined to specific instances. Unless so authorized by the Board of Trustees, no officer, agent or employee shall have any power or authority to bind the Association by any contract or engagement or to pledge its credit to render it liable for any purpose or to any amount.

Section 9.04. Inspection of Bylaws. The Association shall keep in its principal office for the transaction of business the original or a copy of the Bylaws as amended or otherwise altered to date, certified by the Secretary, which shall be open to inspection by the Members at all reasonable times during office hours.

**ARTICLE X
AMENDMENTS**

Section 10.01. Power of Members. New Bylaws may be adopted, or these Bylaws may be amended or repealed by the vote of Members, including the Declarant, entitled to exercise a majority of the voting power of the Members or by the written assent of such Members, except as otherwise provided by law or by the Articles of Incorporation.

Section 10.02. Power of Board of Trustees Members. Subject to the right of Members as provided in Section 10.01 to adopt, amend or repeal Bylaws, Bylaws other than a Bylaw or amendment thereof changing the authorized number of Board of Trustees Members may be adopted, amended or repealed by the Board of Trustees.

**ARTICLE XI
DISSOLUTION**

Section 11.01. Dissolution. The Association may be dissolved with the assent given in writing and signed by not less than two-thirds (2/3) of each class of Members. Upon dissolution of the Association, other than incident to a merger or consolidation, the assets of the Association shall be dedicated to an appropriate public agency to be used for purposes similar to those for which this Association was created. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any nonprofit corporation, association, trust or other organization to be devoted to such similar purposes.

CERTIFICATE OF SECRETARY

I, the undersigned, do hereby certify:

1. That I am the duly elected and acting Secretary **The Lofts on Redwood Owners Association, Inc.**, a Utah Nonprofit Corporation; and
2. That the foregoing Bylaws, consisting of thirteen (13) pages, constitute the original Bylaws of said corporation as duly adopted at the Organizational, Meeting of the Board of Trustees thereof, duly held on the 17th day of October, 2018.