

After recording, return to:

Sterling Barnes
Vineyard Shores, LLC
1404 West State Street, Ste 6
Pleasant Grove, Utah 84062

ENT 15660:2008 PG 1 of 33
RANDALL A. COVINGTON
UTAH COUNTY RECORDER
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**DECLARATION OF EASEMENTS, COVENANTS,
CONDITIONS AND RESTRICTIONS**

THE SHORES SUBDIVISION

Vineyard, Utah County, Utah

THIS DECLARATION (the "Declaration") is made this 29th day of October, 2007 by Vineyard Shores, LLC, a Utah Limited Liability Company with offices at 1404 West State Street, Ste 6, Pleasant Grove, Utah 84062 (the "Declarant"), in its capacity as the Owner and Developer of The Shores Subdivision (hereafter "The Shores"), a Subdivision, Vineyard, Utah.

ARTICLE I

PURPOSE AND EFFECTUATION

1.01 **Purpose.** The purpose of this instrument is to provide for the preservation of the values of Lots and residential Units within The Shores, a Subdivision in Vineyard, Utah (hereafter "Development"), and for the maintenance of the roads, driveways, amenities, open spaces, landscaping, and all other Common Areas therein.

1.02 **Effectiveness.** Declarant has constructed or will construct upon the Property a residential development entitled "THE SHORES" that shall include privately owned lots, common areas, and other improvements as will be described herein. From and after the effective date hereof: (a) Each part of the Development and each Lot and Unit lying within the boundaries of the Development shall constitute but constituent parts of a single Subdivision; (b) The Development shall consist of the Lots and of the Common Areas which are described and depicted on the Plat; (c) The Declaration for the Development shall consist of this document as the same may be modified, amended, supplemented, or expanded in accordance with the provisions hereof; and (d) The Plat of the Development shall consist of the instrument which is identified as:

Plan Map/Plat: The Shores Phase 1 & 3
Entry No.: 15658-2008, 15659-2008
Date: 2-11-08

A Subdivision, Vineyard, Utah, and filed for record herewith in the office of the Utah County Recorder, Provo, Utah County, Utah.

1.03 **Sale of Lots.** Declarant intends to sell to various purchasers the fee title to the individual Lots contained in the Property subject to the Plat Map, or Maps and the covenants, conditions and restrictions set forth herein.

1.04 **Filing of Declaration.** Declarant intends by filing of this Declaration to submit the Property and all improvements now or hereafter constructed thereon to the provisions, covenants and conditions of

this Declaration.

- 1.05 **Covenants To Run With The Land.** This Declaration containing covenants, conditions and restrictions relating to the Subdivision shall constitute enforceable equitable servitudes which shall run with the land and this Declaration and when recorded with the Utah County Recorder, this Declaration and its terms and provisions, including servitudes, shall be binding upon Declarant, its successors, assigns and upon all owners of property in the Subdivision, their grantees, mortgagees, successors, heirs, executors, administrator, devisees and assigns, regardless of whether or not they receive a copy hereof at closing or any time thereafter.

ARTICLE II

DEFINITIONS

When used in this Declaration each of the following terms shall have the meaning indicated:

- 2.01 **Additional Land** shall, at any point in time, mean all of the land in Vineyard, Utah County, State of Utah.
- 2.02 **Architectural Control Committee** (hereafter, "ACC", or sometimes "the Committee", shall mean and refer to the committee whose powers and authority are set forth throughout this Declaration and more specifically in Section 8 of this Declaration.
- 2.03 **Articles** shall mean and refer to the Articles of Incorporation of the Association, which are or shall be filed in the Office of the Division of Corporations and Commercial Code, State of Utah, as amended from time to time.
- 2.04 **Assessment** shall mean the amount, which is to be levied and assessed against each Lot and paid by each Owner to the Association for Association expenses.
- 2.05 **Association** shall mean THE SHORES OWNERS ASSOCIATION, a Utah nonprofit corporation, and its successors and assigns.
- 2.06 **Board** shall mean the Board of Trustees of the Association.
- 2.07 **Building** shall mean and refer to any of the structures constructed in the Project.
- 2.08 **Business and Trade** shall be construed to have their ordinary generally, accepted meanings, and shall include, without limitation any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether such activity is engaged in full-or part-time; such activity is intended to or does generate a profit; or a license is required.
- 2.09 **Bylaws** shall mean the Bylaws of the Association as set forth and embodied in this Declaration in Articles XI, XII, and XIII.
- 2.10 **Common Areas** shall mean all portions of the Development except the Lots and Units, and shall

include all property owned by the Association for the common use and enjoyment of the Owners such as all private undedicated roadways, driveways, parking, amenities, open spaces, landscaping, structural common areas, if any, and the like, together with all easements appurtenant thereto, as reflected on the Plat.

2.11 **Declarant** shall mean and refer to Vineyard Shores, LLC, a Utah limited liability company, its successors and assigns, if any, as developers or Owners of the Development.

2.12 **Declaration** shall mean this "Declaration of Easements, Covenants, Conditions and Restrictions of The Shores, a Subdivision, Vineyard, Utah County, Utah as the same may be supplemented or amended from time to time.

2.13 **Development** shall mean the Subdivision known as The Shores as it exists at any given time.

2.14 **Family** shall mean and refer to a group of two or more individuals related by blood or legal marriage residing in the same residential structure and maintaining a common household.

2.15 **Guest** shall mean and refer to a temporary visitor, invitee or person whose presence within the Project is approved by or is at the request of a particular resident.

2.16 **Improvement** shall mean and refer to all existing physical structures and appurtenances to the Property of every kind and type, including but not limited to all buildings, dwelling units, fixtures, plumbing, electrical, heating, air conditioning and utility systems, roads, walkways, driveways, parking areas, fences, walls, stairs, landscaping, trees, shrubs, bushes and green space.

2.17 **Land** shall mean and refer to all of the real property subject to this Declaration.

2.18 **Lot** shall mean and refer to any of the separately numbered and individually described parcels of land within the Development as designated on the Plat intended for single-family residential use or for the construction of a common amenity, such as a "community center" or "club-house". Where the context indicates or requires, the term Lot includes any dwelling unit, physical structure or improvement constructed on the Lot.

2.19 **Lot Number** shall mean and refer to the number, letter or combination thereof designating a particular Lot.

2.20 **Lot Owner or simply Owner** shall mean and refer to the person who is the Owner of record (in the office of the County Recorder of Utah County, Utah) of a fee or an undivided fee interest in a Lot, including but not limited to both the seller and buyer under an executory sales contract (e.g., uniform real estate, land sales contract, or other similar instrument). Notwithstanding any applicable theory relating to mortgages, no Mortgagee nor any trustee or beneficiary of a deed of trust or trust deed shall be an Owner unless such party acquires fee title pursuant to foreclosure or sale or conveyance in lieu thereof. Declarant shall be an Owner with respect to each Lot owned by it. Multiple Owners of a particular Lot shall be jointly and severally liable to all responsibilities of an Owner.

2.21 **Managing Agent** shall mean any person or entity appointed or employed as Managing Agent by the Association.

2.22 **Mortgage** shall mean and refer exclusively to either a mortgage or deed of trust on any Lot, but shall not mean or refer to an executory contract of sale.

2.23 **Mortgagee** shall mean and refer exclusively to a Mortgagee under either a mortgage or a beneficiary under a deed of trust on any Lot, but shall not mean or refer to a Seller under an executory contract of sale.

2.24 **Owner** shall mean and refer jointly and severally to: the owner of both the legal and equitable interest in any lot; the owner of record in the offices of the County Recorder of Utah County, Utah; and both the buyer and seller under any executory sales contract or other similar instrument.

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

2.26 **Plat, Plat Map or Map** shall mean and refer to the subdivision plat covering the Property entitled "The Shores, A Subdivision, Vineyard, Utah County, Utah," prepared and certified to by Josh F. Madsen (a duly registered Utah Land Surveyor holding Certificate No. 5152657), executed and acknowledged by Declarant, accepted by Vineyard, and filed for record in the office of the County Recorder of Utah County, Utah. Such term shall also include any subdivision plat or plats pertaining to all or any portion of the Additional Land as and when the same is annexed and added to the Development pursuant to the annexation provisions of Article III of this Declaration.

2.27 **Project** shall mean and refer to the Subdivision.

2.28 **Project Documents** shall mean this Declaration and the recorded plat.

2.29 **Property** shall mean all land covered by this Declaration, including common Areas and Lots and other land annexed to the Development as provided in this Declaration. The initial Property shall consist of the land described in Section 3.01 of Article III hereof.

2.30 **Recreational Vehicle** shall mean and refer to any recreational vehicle, motor home, commercial vehicle, tractor or, golf cart, mobile home or trailer (either with or without wheels), camper, camper trailer, boat or other watercraft, boat trailer, ATV four wheeler, motorcycle, snowmobile, or any other like device of any kind.

2.31 **Reimbursement Assessment** shall mean a charge against a particular Owner or his Lot for the purpose of reimbursing the Association for costs incurred in bringing the Owner or his Lot or Unit into compliance with the provisions of this Declaration, the Articles, Bylaws or rules and regulations of the Association, or any other charge designated as a Reimbursement Assessment in this Declaration, the Articles, Bylaws or rules and regulations of the Association, together with costs, interest, attorney's fees and other charges payable by such Owner pursuant to the provisions of this Declaration.

2.32 **Single-Family Home or Residence** shall mean and refer to both the architectural style of a dwelling unit and the nature of the residential use permitted.

2.33 **Subdivision** shall mean and refer to Project as named above.

2.34 **Unit** shall mean a structure which is designed, constructed and intended for use or occupancy as a single family residence on a Lot, together with all improvements located on the same Lot and used in conjunction with such residence, including anything located within or without said Unit (but designated and designed to serve only that Unit) such as patios, fences, decks, appliances, electrical receptacles and outlets, air conditioning compressors and other air conditioning apparatus.

PROPERTY DESCRIPTION AND ANNEXATION

3.01 **Submission.** The Property which initially is and shall be held transferred, sold, 'conveyed, and occupied subject to the provisions of this Declaration consists of the following described real property in the Town of Vineyard, Utah County, State of Utah:

See Attached Exhibit A

TOGETHER WITH all easements, rights-of-way, and other appurtenances and rights incident to, appurtenant to, or accompanying the above described parcel of real property, whether or not the same are reflected on the Plat.

RESERVING UNTO DECLARANT, however, such easements and rights of ingress and egress over, across, through, and under the said property and any improvements (including buildings) now or hereafter constructed thereon as may be reasonably necessary for Declarant (in a manner which is reasonable and not inconsistent with the provisions of this Declaration): (i) to construct and complete each of the buildings and Units and all of the other improvements described in this Declaration or in the Plat recorded concurrently herewith, and to do all things reasonably necessary or proper in connection therewith; (ii) to construct and complete on the Land or any portion thereof such improvements as Declarant shall determine to build in its sole discretion; and (iii) to improve portions of the said property with such other or additional improvements, facilities, or landscaping designed for the use and enjoyment of all the Owners as Declarant may reasonably determine to be appropriate. If, pursuant to the foregoing reservations, the said property or any improvement thereon is traversed or partially occupied by a permanent improvement or utility line, a perpetual easement for such improvement or utility line shall exist. With the exception of such perpetual easements, the reservations hereby effected shall, unless sooner terminated in accordance with their terms, expire ten (10) years after the date on which this Declaration is filed for record in the office of the County Recorder of Utah County, Utah.

ALL OF THE FOREGOING IS SUBJECT TO all liens for current and future taxes, assessments, and charges imposed or levied by governmental or quasi-governmental authorities; all Patent reservations and exclusions; all mineral reservations of record and rights incident thereto; all instruments of record which affect the above-described real property or any portion thereof, including, without limitation, any Mortgage (and nothing in this paragraph shall be deemed to modify or amend such Mortgage); all visible easements and rights-of-way; all easements and rights-of-way, encroachments, or discrepancies shown on or revealed by the Plat or otherwise existing; an easement for each and every pipe, line, cable, wire, utility line, or similar facility which traverses or partially occupies the said real property at such time as construction of all Development improvements is complete; and all easements necessary for ingress to, egress from, maintenance of, and replacement of all such pipes, lines, cable, wires, utility lines, and similar facilities; AND TO EACH OF THE COVENANTS, EASEMENTS, CONDITIONS AND RESTRICTIONS CONTAINED IN THIS DECLARATION.

3.02 **Division into Lots.** The Development is hereby divided into Sixty (60) Lots, as set forth and described on the Plat, with appurtenant and equal rights and easements of use and enjoyment in and to the common Areas, as well as appurtenant obligations pertaining to assessments, maintenance, etc., all as set forth in this Declaration.

3.03 **Acknowledgement of Adjacent Properties.** Owners acknowledge and understand that the Development is located adjacent to property currently zoned R 1-8 that is considered "agricultural in nature" and that as such the adjacent property may produce normal everyday sounds, odors, sights, equipment, facilities, and other aspects associated with an agricultural lifestyle and that Owners recognize the risks inherent with living close to livestock.

ARTICLE IV

DUTIES AND OBLIGATIONS OF OWNERS

4.01 **Maintenance, Repairs and Fires.** Each Owner shall at his own cost maintain and repair the entire area of his Lot and any improvements constructed thereon in good repair at all times. Snow removal from sidewalks and driveways in the SUBDIVISION shall be the responsibility of each respective Owner. In the event of the damage or destruction of any Unit, the Owner of the Lot on which such Unit is situated shall either rebuild the same within a reasonable time or shall raze the remains thereof so as to prevent the unsightly appearance and dangerous condition of a partially destroyed building in the Development. The painting or repainting, remodeling, rebuilding or modification of any Unit exteriors or parts thereof must be submitted to and approved by the Architectural Control Committee pursuant to its procedures. Notwithstanding the obligations of the Association to maintain and repair improvements and landscaping of the open space as provided herein, no Owner shall openly or wantonly neglect or fail to help keep such items in good and attractive condition. No Owner, Owner's guest(s), or any other person shall have "open fires" of any kind, in or around the Common Area, except that charcoal used inside the appropriate grill or the use of gas grills for cooking is allowed.

4.02 **Assessment.** If the Association determines that any Owner, its family, guests, lessees, or invitees has failed or refused to discharge properly its obligation with regard to the approval, maintenance, repair, or replacement of items for which it is responsible hereunder; then the Association may, but is not obligated to, provide such maintenance, repair or replacement at the Owner's sole cost and expensed, subject to the following:

- (a) Such costs as are incurred by the Association to cure a defect by an Owner to properly maintain and repair his entire lot and any improvements constructed thereon shall be added to and become a part of an assessment to which such Owner and Lot is subject, and shall be secured by a lien against the Lot regardless of whether a notice of lien is filed. Owners are liable to pay all assessments and collection costs, including attorney's fees; provided, however, no first Mortgagee (but not the Seller under an executory contract of sale such as a uniform real estate contract, land sales contract, or other similar instrument), who obtains title to a Lot pursuant to the remedies provided in the Mortgage shall be liable for unpaid assessments which accrued prior to the acquisition of the title.
- (b) Except in an emergency situation, the Association shall give the Owner written notice of their intent to provide necessary maintenance, repair, or replacement at Owner's cost and expense. The notice shall set forth with reasonable particularity the maintenance, repair or replacement deemed necessary by the Committee. The Owner shall have ten (10) days after receipt of notice within which to complete maintenance or repair, or if the maintenance or repair is not capable of completion within such time period, to commence replacement or repair within ten (10) days after notifying the Association of his intent.
- (c) If the Association determines that an emergency exists, then notice and the opportunity to cure the default is not necessary.

(d) The Association may, but is not obligated to, provide any such maintenance, repair, or replacement in the manner described above.

(e) The Committee or its agents or employees shall have a right to enter upon any Lot as necessary to perform such work and shall not be liable for trespass for such entry or work.

4.03 Insurance. Notwithstanding any insurance coverage, required to be provided, herein by the association, each Owner shall procure and maintain in force standard homeowner’s hazard insurance on their property and building as is customary in projects such as the Development and which is consistent with each Owner’s individual circumstances and mortgage requirements.

4.04 Assessments and Rules Observance. Each Owner shall be responsible for the prompt payment of any Assessments provided for in this Declaration and for the observance of the rules and regulations promulgated by the Association from time to time. Owners in violation of the provisions of this Section will not be deemed to be in good standing for Association voting purposes.

4.05 Transfer of Interests. Except for obligations already accrued, an Owner who, for other than purposes of security, transfers all of his interests in his Lot to another, either voluntarily or by operation of law, shall be relieved of all obligations under this Declaration, following such transfer.

4.06 General Provisions for Construction. The Owner is responsible to assure and guarantee that all builders use a dumpster in which to place all construction refuse. Said dumpster must be on site before the framing process begins. Builders must provide a portable toilet on each site for the duration of construction. General contractors are responsible for all subcontractors to keep debris cleaned up and to maintain a clean, safe, and attractive work area.

ARTICLE V

PROPERTY RIGHTS AND CONVEYANCES

5.01 Description of Improvements. The significant improvements in the Project include, or shall include, 60 Lots with roadways, utility connections as well as an entrance to and exit from the Project. The Project will also contain other improvements of a less significant nature. All roadways shall be public and maintained by Vineyard Town unless otherwise designated on the Map.

5.02 Easement Concerning Common Area. Each Lot shall have appurtenant thereto a nonexclusive right and easement of use and enjoyment in and to the Common Areas for their intended purposes. Such right and easement shall be appurtenant to and shall pass with title to each Lot and shall in no event be separated there from.

5.03 Form of Conveyancing; Leases. Any deed, lease, mortgage, deed of trust, purchase contract or other instrument conveying or encumbering title to a Lot shall describe the interest or estate involved substantially as follows:

Lot No. _____ as identified in the Plat recorded in the office of the Utah County Recorder as Entry No. _____, and Map Filing No. _____ Contained within Plat _____ of The Shores, a Subdivision, SUBJECT TO the “Declaration of Easements, Covenants, Conditions and Restrictions of The Shores, a Subdivision, recorded in the office of the Utah County Recorder in Book

_____, at Page _____, as Entry No. _____ (as said Declaration may have heretofore been amended or supplemented), TOGETHER WITH a right and easement of use and enjoyment in and to the Common Areas described, and as provided for, in said Declaration of Easements, Covenants, Conditions and Restrictions (as said Declaration may have heretofore been amended or supplemented.)

5.04 Provisions Binding. Regardless of whether or not the description employed in any such instrument is in the above-specified form, all provisions of this Declaration shall be binding upon and shall inure to the benefit of any party who acquires any interest in a Lot within the subdivision

5.05 Transfer of Title to Common Areas. Concurrent with or immediately following the recordation of this Declaration and the Plat, Declarant shall convey to the Association title to the various Common Areas free and clear of all liens other than mortgages and recorded interests, the lien of current general taxes, and the lien of any nondelinquent assessments, charges, or taxes imposed by governmental or quasi-governmental authorities.

5.06 Limitation on Easement. Each Lot's appurtenant right and easement of use and enjoyment concerning the Common Areas shall be subject to the following:

- (a) The right of the Association to govern by reasonable rules and regulations the use of the Common Areas so as to provided for the enjoyment of the Common Areas in a manner consistent with the collective rights of all the Owners;
- (b) The right of the Town of Vineyard, Utah, and any other governmental or quasi-governmental body having jurisdiction over the Property, to enjoy access and rights of ingress and egress over and across any street or driveway, parking area, walkway, or open area contained within the Common Areas for the purpose of providing police and fire protection and providing any other governmental or municipal service; and
- (c) The right of the Association to dedicate or transfer any part of the common Areas to any public agency or authority for such purposes and subject to such conditions as may be agreed to by the Association; provided that such dedication or transfer must first be assented to in writing by (i) the holder of each and every Mortgage that encumbers any Lot and (ii) the Owners of Lots to which at least sixty percent (60%) of the total votes in the Association appertain.

5.07 Utility Easements. Each Lot is subject to appurtenant easements for underground lines for utility purposes under and through such portions of the Common Areas as are comprised of roads, walkways, and landscaped areas. If any Owner utilizes such easement rights with respect to his Lot or Unit, he shall be responsible for the restoration to its former state of any portion of the Common Areas, which may have been disturbed or damaged as a result.

5.08 Easements for Encroachments. If any structure or Unit improvement (including without limitation, roof overhangs) constructed on any Lot whether or not constructed in replacement of the structure or improvement previously located thereon (so long as such structure or improvement is in substantially the same configuration and location as such prior structure or improvement) now or hereafter encroaches upon any other Lot or upon any portion of the Common Areas, a valid easement for such encroachment and the maintenance thereof, so long as it continues, shall exist. If any structure (including without limitation, roof overhangs) on any Lot shall be partially or totally destroyed and then rebuilt in a manner intended to substantially duplicate the location and configuration of the structure so destroyed, minor encroachments of

such structure upon any other Lot or upon any portion of the Common Areas due to the reconstructed structure's being in a slightly different location than its predecessor shall be permitted; and valid easements for such encroachments and the maintenance thereof, so long as they continue, shall exist.

5.09 **Ownership and Use.** Each owner shall be entitled to the exclusive ownership and possession of his Lot, subject; however, to the restrictions stated herein.

ARTICLE VI

USE, COVENANTS CONDITIONS AND RESTRICTIONS

6.01 **Use of Common Area.** The Common Area shall be used only in a manner consistent with its community nature and with the use restrictions applicable to Lots and Units set forth herein.

6.02 **Nature and Restrictions on Ownership and Use in General.** Each Owner shall have and enjoy the privileges of fee simple ownership of his Lot. There shall be no requirements concerning who may own a Lot, except that use shall be residential and ownership may be restricted only as set forth below and in other Sections of this document.

6.03 **Residential Use.** The Property is zoned and is restricted to single family residential use pursuant to applicable provisions of Lehi Ordinances. Each Lot, Unit and Owner are subject to the uses and restrictions imposed by such zoning, including occupancy and parking, and no Lot or Unit shall be used, occupied, or altered in violation of such ordinances or so as to create a nuisance or to interfere with the rights of any other Owner.

6.03 **Use, Restrictive Covenants.** The following uses, restrictive covenants, nuisances and practices are specifically outlined below, in addition to any additional prohibitions, which may, from time to time, be adopted by the board pursuant to Section 11.03 of this Declaration:

(a) No Lot shall be subdivided or partitioned and no Unit or any part thereof shall be used or occupied by any persons not coming within the definition of "Family" as such term is defined and intended in the Vineyard Town Ordinances or as described above in Section 2.14 as of the date hereof; provided, however, that no more than two (2) non-related persons may live with the residing family as such term is therein defined. No lease of any Unit shall be for less than the whole thereof. A Lease of a unit shall provide that any failure by the resident thereunder to comply with the terms of these covenants, conditions, and restrictions, shall be a default under the Lease. If any Lease does not contain the foregoing provisions, such provisions shall nevertheless be deemed to be a part of the Lease and binding on the Owner and resident by virtue of their inclusion in this Declaration. No Owner shall be permitted to lease his Unit for transient, hotel, seasonal, rental pool, or corporate executive use or purposes, which shall be deemed to be any rental with an initial term of less than six (6) months. Daily or weekly rentals are prohibited. No Owner may lease individual rooms to separate persons. No accessory apartments or partial leases of any kind are allowed. Any Owner who shall lease his Unit shall be responsible for assuring compliance by the resident with the Project Documents. Other than as stated in this Section, there is no restriction on the right of any Owner to lease or otherwise grant occupancy rights to a Unit. Owners shall not be permitted to maintain accessory apartments.

- (b) No Commercial Trade or Business may be conducted in or from any Lot unless:
1. the existence or operation of the Business activity is not apparent or detectable by sight, sound, or smell from outside the residence and is properly licensed;
 2. the Business activity Conforms to all zoning requirements for the Project;
 3. the Business activity does not involve persons coming onto the Project who do not resided in the Project or door-to-door solicitation of residents of the Project; and
 4. the Business activity is consistent with the residential character of the Project and does not constitute a nuisance, or a hazardous or offensive use or threaten the security or safety of other residents of the Project, as may be determined in the sole discretion of the Management Committee. Notwithstanding the above, the approved leasing of a residence shall not be considered a trade or business.
- (c) No dwelling shall exceed two (2) stories in height in addition to the basement (if any) and attic area, and must include a private garage, on grade, for not less than two (3) cars and not more than five (5) cars. Carports or other open storage will not be allowed. Detached garages or accessory buildings will be allowed only if the architecture and exterior materials used are compatible with the adjoining home and if approved by the ACC. No more than a two (2) car garage can face the road at the front of the house unless approved by the ACC. Wherever possible, side entry garages are encouraged. No more than a three (3) car garage can be used in a row unless there is an architectural exception approved by the ACC.
- (d) No Owner shall be relieved of the responsibility for the upkeep and repair of the asphalt, curb and sidewalk fronting or to the side of their Lot. All damages before, during or after construction of a Dwelling shall be repaired, within two (2) months of notice, at the Owner's expense.
- (e) No Dwelling shall be permitted on any Lot wherein the ground floor area of the main structure, exclusive of open porches and garages, is less than:
1. 2,100 square feet main for single story homes;
 2. 1,600 square feet main, 2,600 sq. ft total for two story homes;
 3. All homes must have at least 4,200 sq. ft. of living space (including basements) unless water tables will not allow for a basement.
 3. No split-entry homes shall be allowed.
- (f) No building of any kind shall be located nearer to any lot or street line than the minimum building set back lines as noted in the original subdivision plat approved by Vineyard Town, specifically including but not limited to, building projections such as bay windows, fireplaces, decks, covered patios and balconies.
- (g) All power and telephone lines must be run underground. No tank or container for the storage of fuel larger than ten (10) gallons may be maintained on the property.
- (h) No building material of any kind shall be placed or stored upon any lot until the Owner thereof is ready to commence improvements and then the material shall be placed within the property lines of the lot upon which the improvements are to be erected, and shall not be placed in the streets or between the curb and the property line.
- (i) No animals, livestock, fowl or poultry of any kind shall be raised, bred or kept on any lot, except

that no more than two (2) dogs, cats, or other household pets may be kept, provided that they are not kept, bred, or maintained for any commercial purpose; and provided further that any such pet will be under the control of its Owner; and provided further that any such pet causing or creating a noise, odor, health or other nuisance or unreasonable disturbance shall be permanently removed from the property within ten (10) days after the date of notice, given to the property Owner, by the Management Committee. No pet shall be permitted to urinate or defecate on any private property, Lot, sidewalk or street, and the owner of such pet shall immediately remove feces left by their pet. In addition, any pet which endangers the health or welfare of any Owner or resident or which creates a nuisance (e.g., unreasonable smell, barking, howling, whining, or scratching) or an unreasonable disturbance or is not a common household pet, as may be determined in the sole discretion of the Management Committee, must be permanently removed from the Project upon ten (10) days' written notice by the Management Committee.

- (j) No signs, billboards, nor advertising structures may be erected or displayed on any lots or common areas, except that a single sign, not more than three feet by five feet (3"x5") in size advertising a specific house for sale or rent, or lot for sale, or a builder's construction sign may be on the lot affected until three (3) months after the sale of such house or occupancy by the new Owner. Signs deemed necessary by the Owner/Developer of the subdivision for the sale or promotion of the property may be temporarily erected, but all such signs must be removed promptly at such time that all the lots and/or units in the subdivision are sold. Residential security systems signs smaller than 12" in any dimension are allowable.
- (k) No yard lights, window shades, awnings, window guards, light fixtures, fans or other similar items shall be installed outside the interior of any building without the prior written consent of the ACC. The developer reserves the right to install subdivision lighting, as it deems appropriate. Air Conditioners shall be installed only on the rear or side of a home. If installed on the side of the home, air conditioners must be screened structurally or with landscaping so they are not visible from the street. No unit may use or incorporate an evaporative cooler system unless authorized by the ACC.
- (l) No outside television or radio aerial, antenna, or satellite dish or other similar device for reception or transmission shall be permitted on any Lot or the exterior of any Unit if visible from the street. Solar energy, cooling, and water heating devices are prohibited on any roofs unless approved by the ACC. If approved, such devices shall be integrated into the roof design and panels and frames must be compatible with roof colors and such fixtures and equipment must be screened from view from any street in the subdivision.
- (m) No trash, ashes, concrete, nor any other refuse may be dumped, thrown, or otherwise disposed of, on any lot or any part or portion of the subdivision or surrounding properties.
- (n) No structure of a temporary character such as a trailer, basement, tent, shack, garage, barn, or other out buildings shall be used on any Lot at any time as a residence, either temporarily or permanently. Anything to the contrary notwithstanding and until the occurrence of the Events referred to herein; the Developer may install and use temporary structures in the development of the Project and marketing of the Lots or Units. All fence plans shall be submitted to the ACC for approval of style, material, height, color and placement. No chain link or vinyl fencing of any type will be allowed except by approval from the ACC for limited purposes described herein. Chain link may be used for dog runs, etc., which are not visible from any street. Additionally, the design of any fences used to secure private swimming pools and private tennis courts shall be

submitted to the ACC for approval prior to such fence being constructed.

- (o) No exterior materials utilized on Dwellings and other structures shall consist of any materials other than stone, brick, acrylic stucco or other materials as approved by the Committee. The exterior material of each structure must consist of brick, stone, rock or stucco or a combination thereof, with at least 30% of the home being brick, cultured stone or natural stone. A minimum of 50% of the front façade shall be covered in masonry – brick or stone, unless authorized by the ACC. No aluminum or vinyl siding may be used on the exterior except on the soffit and fascia. The ACC shall reserve the right to require the use of certain materials or combination of materials based upon the design or plan submitted. New exterior construction products such as cement-based siding, “Hardy Board”, or masonite, etc., may be used only upon approval by the ACC. At least 2 building materials must be used on all sides of the home. In all cases, home exteriors shall conform to the general theme of the neighborhood design as determined by the ACC. The use of natural earth tones will be encouraged. Prior to work beginning, any alterations or modifications to the exterior of any existing building, fence, railing, or wall situated within the Project shall be approved by the ACC in writing. No driveways and other flat paved areas shall be constructed of any materials other than concrete, exposed aggregate concrete, stamped concrete, quarry tile, brick or paving blocks. Gravel areas and asphalt are not permitted.
- (p) No roof pitch shall be less than 8/12. A minimum of 3 horizontal forms and 3 rooflines is required to create the minimum amount of articulation to meet the requirements. Other roof designs and pitches may be submitted to the ACC for approval and may be approved if they are considered compatible with the design of the subject home as well as the surrounding or planned homes. Requests for exceptions for any reason shall be submitted in writing to the ACC and any exceptions to the roof pitch requirement must have written approval from the ACC. All the roofing material must be of wood shake shingles, tiles, or equivalent. Architectural shingles shall be built up to be about twice as thick as normal shingles with the layers to be staggered to give them a heavier and more substantial or “architectural” look. No steel roofs are permitted. A 30-year architectural grade shingle may be permitted with ACC approval. No roof-top, window, or wall-mount evaporated coolers or AC units will be allowed. All roof material color is subject to ACC approval.
- (q) No aluminum foil, newspapers, reflective film coatings, or any other similar materials may be used to cover the exterior windows of any Dwelling or garage. Internal sunshades and tinted windows are allowed. All windows and windowpanes in the Project shall be harmonious in design and quality, so as not to detract from uniformity in appearance and construction.
- (r) No pools, spas, fountains or game courts shall be constructed unless approved by the Committee and such shall be located to avoid impacting adjacent properties with light or sound. Pool heaters and pumps must be housed, sound insulated, and screened from view from neighboring houses. Skateboard areas and/or ramps or like structures are prohibited.
- (s) No vehicles may be posted for sale, stored for repair, parts or salvage or otherwise kept at any location visible from any street in the subdivision, nor shall vehicles be left unused for more than 60 days or at any time in a visible state of repair. All rubbish, trash, refuse, waste, dusty debris and garbage should be regularly removed from the lot and shall not be allowed to accumulate thereon. All containers for the storage or disposal of such material shall be kept in a clean and sanitary condition, shall be stored out of the view of the general public provided, however, that such containers may appropriately be placed for collection not more than twenty-four (24) hours

prior to any scheduled collection date and shall be removed from the view of the general public promptly after being emptied.

- (t) The discharge of firearms and the possession or use of incendiary devices or hazardous materials of any kind within the Project is prohibited. The term firearms includes but is not limited to all guns, pistols, handguns, rifles, automatic weapons, semi-automatic weapons, BB guns, pellet guns, slingshots, wrist-rockets, blow-dart guns, and other firearms of all types, regardless of size.
- (u) A Landscape Plan addressing the entire lot, drainage, retention, etc. must be submitted to the ACC for approval along with the required house plans and lot layout. As part of that Plan, Owners must plant a minimum of 6 trees on each lot, in addition to the required trees in the planter strip between the back of curb and the sidewalk. Each tree must be of two (2) inch caliper or greater. The front yard landscaping of each Lot and the finished grading of the entire lot shall be completed prior to the Owner moving into the residence, or within two (2) months after receiving an occupancy certificate if the Owner does not move into the residence upon completion, weather permitting. The front yard of any Lot shall be defined as "all land in front of the back plane of the residence" and the front yard of any corner lot shall be "all land in front of the back plane of any residence and all land from the side plane to the a-joining street". If occupancy certification occurs between October and March, front yard landscaping must be completed by the following June 1st. Failure to commence and complete landscaping within the stated time limits constitutes a violation of the covenants which violation authorizes Declarant or its agents to landscape such property in conformity with like subdivision landscaping and to collect such amounts from said property owners by law. Such collections shall include costs for attorney's fees and court costs. The backyard landscaping of each Lot shall be completed within six (6) months after receiving occupancy certification, weather permitting. In any event, the owner shall be responsible for the control and abatement of weeds in all areas until landscaping is completed. The owner shall landscape all remaining land not occupied by a building structure including any park strip located between the curb and the sidewalk. Owners shall install an automatic sprinkling system to maintain the entire yard. Additionally, all landscaping shall be consistent with Vineyard Town ordinances and is subject to the requirements described on the recorded plat and Subdivision Approval. All demolition, clearing, grubbing, stripping of soil, excavation, grading and compensation must be performed within the confines of an Owner's Lot. Each Owner shall plant and maintain the required number of trees specified by Vineyard Town, in their respective park strip. Each owner shall be required to sod or seed grass in their respective park strip. Said park strip shall have a sprinkling system constructed and installed by the Owner. Park strips and yards may not be designed without grass unless pre-approved by the ACC. In general, landscaping may consist of a combination of lawn, shrubs, or groundcover. Groundcover may include vegetative vines, low-spreading shrubs, annual or perennial flowering or foliage plants and may also include mineral or non-living organic permeable material in not more than fifty percent (50%) of the net landscaped area. Mineral groundcover may include such materials as rock, boulders, gravel, and bricks over sand, etc. The homeowner shall determine species, size, and placement of landscape elements. The Builder or Owner of the lot shall post a minimum bond of \$2000 for landscaping with Vineyard Town along with the building permit.

The following trees, because of their undesirable characteristics are prohibited in the subdivision:

Species Name

Popular or Common Name

Ailanthus Altissima	Tree of Heaven
Pelecanus Occidentalis	American Plane Tree
Populus Acuminata	Lace Leaf Poplar
Populus Alba	Silver Poplar
Populus Alba Balaena	Balaena Poplar
Populus Angustifolia	Narrow-leaf Poplar
Populus Deltoides	Carolina Poplar
Populus Fremontia	Fremont's Poplar
Populus Nigra italica	Lombard Poplar
Robinia Pseudoacaia	Black Locus
Ulmus Pumila	Siberian/Chinese Elm

All grading and drainage of Lots shall be consistent with Vineyard Town Standards. Owners are responsible for the grading and or drainage of their Lot and they assume full responsibility for any and all damage incurred as a result of such. All landscaping shall comply with the Vineyard Town Ordinances and is subject to the requirements described on the recorded plat and the Conditions of Subdivision Approval. Trees, lawns, shrubs or other plantings provided by the Owner of each respective lot shall be properly nurtured and maintained or replaced at the Owner's expense upon request of the ACC. All demolition, clearing, grubbing, stripping of soil, excavation, compaction and grading must; be preformed in the confines of a lot. All landscaping shall be maintained in a neat and orderly condition. Any weeds or diseased or dead lawn, trees, ground cover or shrubbery shall be removed and replaced. All lawn areas shall be neatly mowed, and trees, shrubs and bushes shall be promptly pruned and trimmed. All property located at or near driveways, entrances, exits, walkways, paths and street intersections or corners shall be landscaped so as to remove any obstructions and to permit safe sight. No fence, wall, hedge, shrub, bush, tree, monument, real or artificial, shall be planted or placed by an Owner or resident in, on or about any Lot in violation of this provision or in such a way as may cause a sight/safety hazard. The Management Committee may alter or remove any objects planted or placed in violation hereof, at the Owner's expense.

- (v) No in-operable automobile shall be placed or remain in any lot or adjacent street for more than forty-eight (48) hours. No commercial type vehicles and no trucks over one (1) ton capacity shall be parked or stored on the front yard setback of any lot, or within the side yard building setback, or on the residential street except while engaged in transportation. In any event no commercial type vehicles shall be parked on any lot, or visible from the street. Trailers, motor homes, trucks over one (1) ton, boats, campers not on a truck bed, buses, tractors and maintenance or commercial equipment of any kind shall be stored behind the front yard setback in an enclosed area screened from street view. Sufficient side yard gate access shall be planned and provided for in the design of the home, to permit ingress, egress and storage of trailer or recreational type vehicles on the side or rear yards. All Recreational Vehicles shall be stored behind the front of the garage and behind a fence approved by the ACC. No Recreation Vehicle shall be stored on the streets, driveways or front yards for a period longer than 48 hours without specific written permission from the ACC. No Recreational Vehicle or motor vehicle of any kind shall be repaired, constructed or reconstructed upon any Lot, street, except that these restrictions shall not apply to emergency repairs. Also, Owners shall not park their vehicles on the main street. The Association shall be responsible to enforce these parking restrictions in such manner as it sees fit. The storage or accumulation of junk, trash, or other offensive or commercial materials is prohibited.

Facilities for hanging, drying or airing clothing or household fabrics shall be appropriately screened from street view.

- (w) Every Lot, including all improvements on such Lot, shall be kept in good repair and maintained by the Owner thereof in a clean, safe and attractive condition. Additionally, decorative street lighting shall be approved by Vineyard Town and installed by the Developer. Upon completion of the development, such street lighting shall become the property of the Home Owners Association and maintenance of such street lighting shall be the responsibility of the Home Owners Association.
- (x) These covenants and restrictions (these CC&Rs) shall be binding on all parties and all persons claiming by, through or under them an interest in the property for a period of thirty (30) years from the date these covenants and restrictions are recorded. Thereafter, these covenants and restrictions shall be automatically extended for successive periods of ten (10) years. If the Owners wish to change or modify these CC&Rs, then an instrument signed by not less than two-thirds (2/3s) of the Lot Owners of the property must be submitted to and approved by Vineyard Town agreeing to amend, modify, delete or repeal any part of or all such covenants and restrictions. After such approval, the instrument shall be recorded in Utah County. In any event, any changes to the CC&R's contained herein must first be submitted to and approved by the Planning Commission and Town Council of Vineyard Town or such municipality as may have jurisdiction over the Property at such time as changes are made.
- (y) In the event an Owner has been notified by the Home Owners Association that a violation of these CC&Rs has taken place, and that Owner has not taken the appropriate action to correct such violation as provided for herein, then the Home Owners Association shall first submit such violation to Vineyard Town for enforcement. Vineyard Town has the option to enforce these CC&Rs at their discretion. This shall not limit the Home Owners Association from exercising any other legal remedies available to them.

6.04 Nuisances. It shall be the responsibility of each owner and resident to prevent the creation or maintenance of a nuisance in, or about the Project. A nuisance includes but is not limited to the following:

- (a) The development of any unclean, unhealthy, unsightly, or unkempt condition on, in or about a Lot;
- (b) The storage of any item, property, substance or material or thing that will cause any Lot to appear to be in an unclean or untidy condition or that will be noxious to the senses, or that will emit any foul, unpleasant or noxious odors, or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort, or serenity of the other residents at the Project;
- (c) Any conduct or condition that is noxious or offensive, including loitering, or that tends to cause embarrassment, discomfort, annoyance, distress or a disturbance to any other residents, their guests or invitees, particularly if the police or sheriff must be called to restore order, and particularly including persistent and noticeable noise in, on or about any Lot, especially after 10:00 p.m. and before 7:00 a.m. Any graffiti shall be promptly removed from a Lot by the Owner.
- (d) Maintaining any plants, animals, devices or items, instruments, equipment, machinery, fixtures, or things of any sort whose activities or existence in any way is illegal, noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the Project by other residents, their guests or Invitees.
- (e) The pursuit of hobbies or other activities, including but not limited to the assembly and disassembly of motor vehicles and other mechanical devices which might tend to cause

disorderly, unsightly, or unkempt conditions, shall not be pursued or undertaken on any part of the Project.

6.05 Areas of Personal Responsibility. Each Owner shall maintain his Lot and Unit, and all of the improvements constructed or installed thereon as originally approved by the ACC, or as improved by the Owner from time to time. The following items are expressly included, but not limited to the Areas of Personal Responsibility: all roofs; foundations; footings; columns; girders; beams; supports; main walls and exterior of any Dwelling Unit and garage; all individual utility services such as power, light gas, hot and cold water; heating, refrigeration and air conditioning systems; fixtures; windows; doors; patios; balconies and decks; garage doors and garage door systems; and fences.

6.06 Town Participation. The Project contains roads and walkways and other improvements dedicated to Vineyard Town as shown on the Map that will be maintained by Vineyard Town.

ARTICLE VII

ARCHITECTURAL CONTROL

7.01 Architectural Control Committee. The Declarant, or the Board of Trustees of the Association shall appoint a three-member Architectural Control Committee (the "ACC or Committee"), the function of which shall be to ensure that all improvements and landscaping within the Development harmonize with existing surroundings and structures. Initially, the Committee will consist of the Declarant, but the Committee need not be composed of Owners. If such a Committee is not appointed, the Board itself shall perform the duties required of the Committee. A majority of the Committee may designate a representative to act for it or replace any member of the committee. In the event of the death or resignation of any member of the Committee, the remaining members shall have full majority to designate a successor. Neither the members of the Committee, nor its designated representative shall be entitled to any compensation for services performed pursuant to this covenant.

7.02 Submission to Committee. No Unit, accessory of or addition to a Unit shall be constructed or maintained, and no alteration, repainting, or refurbishing of the exterior of any Unit shall be performed, unless complete plans and specifications including exterior materials and color selections have first been submitted to and approved by the Architectural Control Committee. All submissions shall be in duplicate and shall be accompanied by a written request for approval, which includes the name and address of the applicant. One set of building plans with the Architectural Control Committee's approval or disapproval and/or corrections and modifications necessary, shall be returned to the applicant. One copy of the approved plans shall be stamped and signed by the Architectural Control Committee prior to submission to Vineyard Town. The approval of the Committee, as required herein, as to quality workmanship, materials, size, harmony of external design with existing and proposed structures, and design with respect to topography and finish grade elevation, shall be in writing. Such plans and specifications shall be deemed to have been approved if the Committee fails to take written action to approve or disapprove plans within thirty (30) days after such plans and specifications have been submitted.

7.03 Standard. In deciding whether to approve or disapprove plans and specifications submitted to it, the committee shall use its best judgment to insure that all improvements, construction, landscaping, and alterations on Lots and Units within the Development conform to and harmonize with existing surroundings and structures. The exterior of each home must primarily be of brick, stucco, stone, cultured stone or a combination of these products. Vinyl or aluminum siding is not an approved exterior wall covering and may only be used for fascia, soffet and trim. Exterior color samples must be in harmony with the other homes.

Any detached accessory building erected on a Lot shall conform in design and materials with the primary residential home on the Lot and must be approved by the Committee. The Committee shall govern interpretation of these covenants and restrictions. Any structure hereafter constructed on any Lot in replacement of the structure previously located thereon shall be constructed in substantially the same configuration, location and architectural style and be approximately the same size as the prior structure; and if the plans and specifications therefore meet such criteria, the Committee must approve the same.

7.04 Approval Procedure. Any plans and specifications submitted to the Committee shall be approved or disapproved by it in writing within thirty (30) days after submission; provided, however, that plans and specifications for any replacement structure to be constructed in substantially the same configuration, location and architectural style and to be of substantially the same size as its predecessor shall be approved or disapproved within seven (7) days after submission. In the event the Committee fails to take any action within such specified periods, it shall be deemed to have approved the material submitted except in those respects that such material is not in conformity with the provisions of this Declaration, as to which respects it shall be deemed disapproved. All building plans must be stamped and signed by the Architectural Control Committee prior to submittal to Vineyard Town for building permits.

7.05 Town Approval. Approval of any improvements by the ACC does not waive those required by Vineyard Town or any other required public agency review or permit approval process. By approving plans, the ACC takes no responsibility for plan conformity to any criteria other than the requirements of this Declaration and any design or architectural guidelines that may be established by the ACC or a subcommittee of the same, or exist herein.

7.06 Construction. Once begun, any improvements, construction, landscaping, or alterations approved by the committee shall be diligently prosecuted to completion. If reasonably necessary to enable such improvement, construction, landscaping, or alteration, the person carrying out the same shall be entitled to temporarily use and occupy portions of the Common Areas in the vicinity of the activity provided that they shall promptly restore such areas to their prior condition when the use thereof is no longer required. Any construction, improvements etc. shall be carried out in accordance with any required Vineyard Town building permits.

7.07 Liability for Damages. Neither the Committee nor any member thereof shall be held liable for damages by reason of any action, inaction, approval, or disapproval taken or given without malice by such member or the Committee with respect to any request made pursuant to this Article VII. Neither the Architectural Control Committee nor the Developer (Declarant) by approval of such plans assumes any obligation or liability or duty regarding the quality of construction, engineering, or design of a building, the safety thereof, or the suitability of the effected land for the proposed construction, including proposed full basements.

7.08 Declarant's Obligation. Declarant hereby covenants in favor of each Owner (a) that all Units to be erected by it and all improvements of the Common Areas to be accomplished by it in the Development will be architecturally compatible with respect to one another; and (b) that on the date on which this Declaration is filed for record in the office of the County Recorder of Utah County, Utah, all Lots and Common Areas of the Development will be located approximately in the locations shown on the Plat.

ARTICLE VIII

INSURANCE

8.01 Property Insurance. The Board shall procure and maintain from a company or companies holding a financial rating of Class VI or better from Best's Key Rating Guide, a policy or policies of property insurance in an amount or amounts equal to or exceeding the full replacement value of the Common Areas owned by the Association. Such insurance policy or policies shall name the Association as insured for the benefit of the Owners and shall afford protection, to the extent applicable, against at least the following:

- (a) Loss or damage by fire and other hazards covered by the standard extended coverage endorsement, and by vandalism, malicious mischief, windstorm, and water damage; and
- (b) Such other risks as shall customarily be covered with respect to facilities similar in construction, location and use.
- (c) The policy deductible shall be \$1,000 or less
- (d) Each Unit Owner shall be responsible to purchase a separate homeowners policy. All claims for liability must be submitted first to the homeowner's policy. The Association will not be required to file claims on the master policy for liability that would have been covered under a homeowner's policy.

8.02 Liability Insurance. The Board shall procure and maintain from a company or companies holding a financial rating of Class VI or better from Best's Key Rating Guide a policy or policies (herein called the "Policy") of Public Liability Insurance to insure the Association, the Board, the Managing Agent and employees of the Association and the Owners against claims for bodily injury and property damage arising out of the conditions of the Common Areas or activities thereon under a Comprehensive General Liability form. Such insurance shall be for such limits as the Board may decide, but not less than those limits customarily carried in connection with properties of comparable character and usage in the County of Utah, nor less than \$1,000,000 for personal injury and property damage arising out of a single occurrence, such coverage to include protection against water damage liability, liability for non-owned and hired automobiles, liability for the property of others and such other risks as shall customarily be covered with respect to property similar in construction, location and use. The policy shall contain a "Severability of Interest" endorsement, which shall preclude the insurer from denying the claim of any Owner because of negligent acts of the Association or other Owners and a cross-liability endorsement pursuant to which the rights the named insures as between them selves are not prejudiced. The policy shall provide that the policy may not be canceled or substantially modified by the insurer unless it gives at least thirty (30) days prior written notice therefore to each insured. Any such coverage procured by the Board shall be without prejudice to the right of the Owners to insure their personal liability for their own benefit at their own expense.

8.03 Additional Insurance; Further General Requirements. The Board may also procure insurance, which shall insure the Common Areas and the Association or the Owners, and others against such additional risks as the Board may deem advisable. Insurance procured and maintained by the Board shall not require contribution from insurance held by any of the Owners or their Mortgagees. Each policy of insurance obtained by the Board shall, if reasonably possible, provide:

- (a) A waiver of the insurer's right of subrogation against the Association, the Owners and their respective directors, officers, agents, employees, invitees and tenants:
- (b) That it cannot be canceled suspended or invalidated due to the conduct of any particular Owner or Owners

- (c) That it cannot be canceled, suspended or invalidated due to the conduct of the Association without a prior written demand that the defect be cured; and
- (d) That any “no other insurance” clause therein shall not apply with respect to insurance maintained individually by any of the Owners.

8.04 Fidelity Coverage. The Association may elect to maintain fidelity coverage to protect against dishonest acts on the part of officers, trustees, managing agents, directors and employees of the Association. In that event, such fidelity bonds shall:

- (a) Name the Associations an obligee
- (b) Be written in an amount based upon the best business judgment of the Association and shall not be less than the estimated maximum of funds (including reserve funds) in the custody of the Association or the Managing Agent at any given time during the term of each bond, but in no event be less than a sum equal to three months’ assessment on all Lots plus reserve funds;
- (c) Contain waivers of any defense based upon the exclusion of volunteers or persons who serve without compensation from any definition of “employee” or similar expression; and
- (d) Provide that they may not be canceled or substantially modified (including cancellation for nonpayment of premium) without at least thirty (30) days prior written notice to the insured.

8.05 Review of Insurance. The Board shall periodically, and whenever requested by Owners entitled to exercise at least Forty percent (40%) of the outstanding votes in the Association, review the adequacy of the Association’s insurance program and shall report in writing the conclusions and action taken on such review to the Owner of each Unit and to the holder of any Mortgage on any Lot who shall have requested a copy of such report. Copies of every policy of insurance procured by the Board shall be available for inspection by any Mortgage.

8.06 Other Insurance Provisions. Insurers licensed in the State of Utah shall write all insurance required pursuant to this Article VIII. Notwithstanding anything in this Article VIII to the contrary, any insurance required to be obtained by the Association pursuant to Section 8.01, 8.02, 8.03 or 8.04 of this Article shall be required only to the extent that such coverage is reasonably obtainable at reasonable rates and is customarily obtained with respect to improvements or facilities having the same or similar characteristics of the Common Areas and Units or risks being insured.

ARTICLE IX

RIGHTS OF MORTGAGES

9.01 Title and Mortgagee Protection. A breach of any of the covenants, provisions, or requirements of this Declaration shall not result in any forfeiture or reversion of title or of any other interest in a Lot or any other portion of the Property. A breach of any of the covenants, provisions, or requirements of this Declaration shall not defeat, impair, or render invalid the lien of or other rights under any Mortgage. Unless and until it enters into possession or acquires title pursuant to foreclosure or any arrangement or proceeding in lieu thereof, any Mortgagee interested under any Mortgage affecting a Lot or any other portion of the Property shall have no obligation to take any action to comply with, and may not be compelled to take any action to comply with, any of the covenants, provisions, or requirements of this Declaration (other than

those, if any, concerning a consent or approval to be given by a Mortgagee, in the event a Mortgagee's failure to give same is wrongful). No amendment to this Declaration shall in any way affect the rights of any Mortgagee interested under a Mortgage which is in effect at the time of the amendment concerned or the rights of any successor in interest or title to such Mortgagee, either before or after such Mortgagee or its successor enters into possession or acquires title pursuant to foreclosure or any arrangement or proceeding in lieu thereof, unless such Mortgagee has consented in writing to such amendment.

9.02 Preservation of Common Area. The Common Area shall remain substantially of the same character, type and configuration as when such Common Area became part of the Development. Unless the Association shall receive the prior written approval of (a) all first Mortgagees of Lots, (b) the Owners of all Lots and (c) Vineyard Town, the Association shall not be entitled by act or omission to abandon, partition, subdivide, encumber, sell, transfer or materially modify the Common Areas, except to grant reasonable easements for utilities and similar or related purposes. To insure long-term maintenance of the Common Area, the Association shall hire a professional maintenance organization to maintain the Common Area.

9.03 Notice of Matters Affecting Security. The Association shall give written notice to any Mortgagee of a Lot requesting such notice whenever:

- (a) There is any material default by the Owner of the Lot subject to the Mortgage in performance of any obligation under this Declaration or the Articles of the Association which is not cured within sixty (60) days after default occurs; or
- (b) Damage to the Common Areas from any one occurrence exceeds \$10,000.00; or
- (c) There is any condemnation or taking by eminent domain of any material portion of the Common Areas.

9.04 Notice of Meetings. The Board shall give to any Mortgagee of a Lot requesting the same, notice of all meetings of the Association; and such Mortgagee shall have the right to designate in writing a representative to attend all such meetings.

9.05 Right to Examine Association Records. Any Mortgagee shall, upon request, have the same right to inspect the books and records of the Association and receive financial statements as the Owner of the Lot securing the Mortgage.

9.06 Right to Pay Taxes and Charges. Mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against any portion of the Common Areas and may pay overdue premiums on insurance policies pertaining to the Common Areas, or secure new insurance coverage pertaining to the Common Areas on the lapse of a policy; and Mortgagees making such payments shall be owed immediate reimbursement therefore from the Association.

9.07 No Priority Accorded. No provision of this Declaration gives or may give a Lot Owner or any other party priority over any rights or Mortgagees pursuant to their respective Mortgages in the case of a distribution to Lot Owners of insurance proceeds or condemnation awards for loss to or taking of Lots and/or the Common Areas.

9.08 Construction. In the event another provision or clause of this Declaration deals with the same subject matter as is dealt with in any provision or clause of this Article IX, the provision or clause which results in the greatest protection and security for a Mortgagee shall control the rights, obligations, or limits of

authority, as the case may be, applicable to the Association with respect to the subject concerned.

ASSOCIATION BYLAWS

THE ASSOCIATION'S BYLAWS ARE HEREBY EMBODIED IN THIS DECLARATION AS ARTICLES X, XI AND XII. THE MISCELLANEOUS PROVISIONS OF ARTICLE XIV OF THIS DECLARATION SHALL BE APPLICABLE TO BOTH THE DECLARATION AND BYLAWS PROVISIONS, AS THE CASE MAY BE.

ARTICLE X

BYLAWS

10.01 Membership. Every Owner upon acquiring title to a Lot shall automatically become a member of the Association and shall remain a member thereof until such time as his Ownership of such Lot ceases for any reason, at which time his membership in the Association with respect to such Lot shall automatically cease and the successor Owner shall become a member. Membership in the Association shall be mandatory and shall be appurtenant to and may not be separated from the Ownership of a Lot.

10.02 Voting Rights. The Association shall initially have two (2) classes of voting memberships, votes of both classes being of equal value as to all matters:

- (a) Class A. Each Owner, including Declarant, shall be a Class A member entitled to one (1) vote for each Lot in which such member holds the interest required for such Class A membership.
- (b) Class B. Declarant shall be the only Class B member and shall be entitled to one (1) vote for each Association Class A membership outstanding at such time (in addition to any votes to which it is entitled as a Class A member); provided, however, that such Class B membership shall lapse and become a nullity on the first to happen of the following events:
 - (i) Ninety (90) days following the date upon which the total outstanding Class A memberships, other than those held by Declarant, equal the total number of Class B votes to which Declarant is entitled pursuant to the provisions of Section 11.02 (b); or
 - (ii) On December 31, 2010; or
 - (iii) Upon surrender of said Class B membership by Declarant in writing to the Association.

Upon the lapse or surrender of the Class B membership, as provided in Section 11.02 (b) (i) and (ii), Developer shall be and thereafter remain a Class A member as to each and every Lot in which Declarant holds the interest otherwise required for Class A membership.

10.03 Multiple Ownership Interests. In the event there is more than one Owner of a particular Lot, the vote relating to such Lot shall be exercised as such Owners may determine between or among themselves, but in no event shall more than the total number of votes appurtenant to such Lot be cast with respect to any issue. A vote cast at any Association meeting or by written consent by any of such Owner, whether in person or by proxy, shall be conclusively presumed to be the entire vote attributable to the Lot concerned unless and objection is made at the meeting or in writing by another Owner of the same Lot, in which event no vote will be counted with respect to such Lot except to determine the presence or absence of a quorum.

10.04 Records of Ownership. Every Owner shall promptly cause to be duly filed of record the conveyance document (or in the case of contract buyer, a copy of the sales contract or notice of interest) to him of his Lot and shall file a copy of such conveyance document with the Secretary of the Association, who shall maintain a record of Ownership of the Lots. Any Owner who mortgages his Lot or any interest therein shall notify the Secretary of the Association of the name and address of the Mortgagee and also of the release of such Mortgage; and the Secretary of the Association shall maintain all such information in the records of Ownership. The Association may at any time obtain and rely on information from the Utah County Recorder regarding the Owners and Mortgagees of Lots.

10.05 Place of Meeting. Meetings of the Association shall be held at such suitable place convenient to the Owners as may be designated by the Secretary of the Association in the notice thereof.

10.06 Annual Meetings. Annual meetings of the membership of the Association shall be held in the month of August of each year beginning in the year 2003 on such day and time as is set forth in the notice therefore; provided, that after the first such annual meeting, a month other than August may be chosen if it is deemed by the membership to be more convenient. At such annual meetings there shall be elected trustees of the Board, as needed, pursuant to the provisions of this Declaration. Financial and budget reports shall also be presented at such meetings as well as other business of the Association properly placed before each meeting.

10.07 Special Meetings. The President shall call a special meeting of the Owners as directed by a resolution of the Board or on a petition signed by Owners holding a least thirty percent (30%) of the total votes of the Association hand having been presented to the Secretary. No business shall be transacted at a special meeting except as stated in the notice therefore unless consented to by fifty percent (50%) or more of the Owners present, either in person or by proxy.

10.08 Notice of Meetings. The Secretary shall mail a notice of each annual or special meeting stating the purpose thereof as well as the time and place of the meeting to each Owner of record at least ten (10), but not more than twenty (20), days prior to such meeting. The mailing of notice by prepaid U.S. Mail or by delivery in person shall consider notice served.

10.09 Quorum. Owners present in person or by proxy at any membership meeting duly called pursuant to notice shall constitute a quorum at all meetings, both annual and special; provided, however, that such Owners collectively be entitled to cast at least thirty percent (30%) of the total Association votes eligible to vote.

10.10 Adjourned Meetings. If any meeting of Owners cannot be organized because a quorum is not present, the Owners who are present either in person or by proxy may adjourn the meeting to a time not less than forty-eight (48) hours from the time the original meeting was called at which time the requirements for a quorum shall be reduced by one-half that required in Section 11.09.

10.11 Officers. The Association shall have a President, a Vice President and a Secretary/Treasurer all of whom shall be elected by and from the Board. The Board may appoint an Assistant Secretary and Assistant Treasurer. Only the same person may fill the offices of Secretary and Treasurer. The officers shall be elected by the Board in an organizational meeting of the Committee immediately following each annual meeting of Owners at which the new Board has been elected. The Association may compensate the officers, as they deem appropriate.

- (a) **President.** The President shall be the chief executive officer of the Association and shall preside at all meetings of the Association and of the Board. The President shall have all of the general powers and duties that are usually vested in the office of president of a similar type association.
- (b) **Vice President.** The Vice President shall take the place of the President and perform his duties whenever the President shall be absent or unable to act. If neither the President nor Vice President is able to act, the Board shall appoint some other member of the Board to do so on an interim basis. The Vice President shall also perform such other duties as shall from time to time be imposed on him by the Board.
- (c) **Secretary.** The Secretary shall keep the minutes of all meetings of the Board and the minutes of all meetings of the Association. He shall have charge of such books and records as the Board may direct and he shall, in general, perform all duties incident to the office of secretary of a similar type association.
- (d) **Treasurer.** The Treasurer shall have responsibility for Association funds and shall be responsible for keeping full and accurate accounts of all receipts and disbursements in books belonging to the Association. He shall be responsible for the deposit of all money and any other valuable effects in the name and to the credit of the Association in such depositories as may from time to time be designated by the Board.

10.12 **Initial Composition of Board.** Declarant alone shall have the right to select the initial Board of Trustees, which may be composed of up to three (3) Trustees but not less than two (2), none of whom need be Owners. Such right of the Declarant to appoint the Board shall remain in Declarant until the expiration of three (3) years after the first conveyance of title to any Lot Owner or until Declarant voluntarily waives such right, in whole or in part, in writing and requests the Association to elect members of the Board in accordance with the Association's Bylaws set forth in Section 10.13, whichever event shall first occur. The Board may be expanded up to and including five (5) Trustees if Declarant deems the same to be warranted by reason of annexation and development of the Additional Land.

10.13 **Board of Trustees: Composition, Election, and Vacancies.** The Association, through its Board of Trustees, is responsible for the maintenance of any Common Areas, the determination, imposition and collection of Assessments, the enforcement of the provisions of this Declaration and, in general, the preservation of the residential quality and character of the Development to the benefit and general welfare of the Owners. Subject to the provisions of Section 10.12, the Board shall be composed of three (3) Trustees, each of whom shall be an Owner (or officer, director, or agent of a non-individual Owner). The Owners may increase the maximum number of Trustees to and including five (5) at any meeting of Association members. At the first meeting of Owners to elect a Board of Trustees one (1) shall be elected to a three-year term, and two (2) to a two-year term. As Trustees' terms expire, new Trustees shall be elected for three-year terms and shall serve on the Board until their successors are elected. Vacancies on the Board shall be filled by the remaining Trustees from among the Owners and such appointees shall serve until the next annual meeting of Owners when their successors shall be elected for the unexpired term of the Trustee they were appointed to replace.

10.14 **Indemnification of Board.** Each of the Trustees shall be indemnified and held harmless by the Lot Owners against all costs, expenses, and liabilities whatsoever (excluding fraudulent and/or criminal actions) including, without limitation, attorneys fees reasonably incurred in connection with any proceeding in which such Trustee may become involved by reason of being or having been a member of said Board.

10.15 Board Meetings, Quorum, Board Action. The Board of Trustees may establish its rules for meetings, whether regular or special. A majority of current Board members shall constitute a quorum. The action of a majority or those Trustees attending a meeting at which a quorum is present shall be sufficient to constitute the action of the Board. Action by consent shall require the unanimous consent of all current Trustees.

ARTICLE XI

BYLAWS

DUTIES AND POWERS OF THE ASSOCIATION

11.01 Duties of the Association. Without limiting any other duties, which may be imposed upon the Association by its Articles of Incorporation, Bylaws or the Declaration, the Association shall have the obligation and duty to do and perform each and every one of the following for the benefit of the Owners and the maintenance and improvement of the Property:

- (a) The Association shall accept all Owners as members of the Association.
- (b) The Association shall accept title to all Common Areas conveyed to it, whether by Declarant or by others, provided the same is free and clear of liens and encumbrances.
- (c) The Association shall maintain, repair, and replace the landscaping in the Common Areas and shall be responsible for the payment of all utility, water and irrigation bills for the Common Areas.
- (d) The Association shall maintain and repair sidewalks and trails in the Common Areas.
- (e) To the extent not assessed to or paid by the Owners directly, the Association shall pay all real property taxes and assessments levied upon any portion of the Common Areas, provided that the Association shall have the right to contest or compromise any such taxes or assessments.
- (f) The Association shall obtain and maintain in force the policies of insurance required of it by the provisions of the Declaration.
- (g) The Association may employ a reasonable corporation, partnership, firm, person or other entity as the Managing Agent to manage and control the Common Areas, subject at all times to direction by the Board, with such administrative functions and powers as shall be delegated to the Managing Agent by the Board. The compensation of the Managing Agent shall be reasonable as specified by the Board. Any agreement appointing a Managing Agent shall be terminable by either party, with or without cause and without payment of any termination fee, upon thirty (30) days' written notice thereof; and the term of any such agreement may not exceed on (1) year, renewable by agreement of the parties for successive periods of one (1) year, renewable by agreement of the parties for successive periods of one (1) year each. Any Managing Agent may be an agent or employee of the Association or an independent contractor, as the Board deems appropriate.

11.02 Powers and Authority of the Association. The Association shall have all the powers set forth in its Articles of Incorporation and Bylaws, together with its general powers as a nonprofit corporation, and the

power to do any and all things which may be authorized, required or permitted to be done by the Association under and by virtue of the Declaration or the Bylaws, including the power to levy and collect assessments as hereinafter provided. Without in any way limiting the generality of the foregoing, the Association shall have the following powers:

- (a) At any time and from time to time and without liability to any Owner for trespass, damage or otherwise, to enter upon any Lot for the purpose of maintaining and repairing such Lot or any improvement thereon if for any reason the Owner fails to maintain and repair such Lot or improvement as required herein. The Association shall also have the power and authority from time to time in its own name, on its own behalf, or in the name and behalf of any Owner or Owners who consent thereto, to commence and maintain actions and suits to restrain and enjoin any breach or threatened breach of the Declaration, the Bylaws or any rules and regulations promulgated by the Board, or to enforce by mandatory injunction or otherwise all of the provisions of the Declaration, the Bylaws and such rules and regulations.
- (b) In fulfilling any of its duties under the Declaration, including its duties for the maintenance, repair, operation or administration of the Common Areas, Lots, and Units (to the extent necessitated by the failure of the Owners of such Lots and Units) or in exercising any of its rights to construct improvements or other work upon any of the Common Areas, the Association shall have the power and authority to obtain, contract and pay for, or otherwise provide for:
 - (i) Construction, maintenance, repair of the Common Areas on such terms and conditions as the Board shall deem appropriate;
 - (ii) Such insurance policies or bonds as the Board may deem appropriate for the protection or benefit of the Association, the members of the Board and the Owners;
 - (iii) Such Common Area related utility services, as the Board may from time to time deem necessary or desirable;
 - (iv) The services of architects, engineers, attorneys and certified public accountants and such other professional or nonprofessional services as the Board may deem desirable;
 - (v) Fire, police and such other protection services as the Board may deem desirable for the benefit of the Owners or any of the Property; and
 - (vi) Such materials, supplies, furniture, equipment, services and labor as the Board may deem necessary.

11.03 Association Rules. The Board from time to time, subject to and not inconsistent with the provisions of the Declaration or the Bylaws, may adopt, amend, repeal and enforce reasonable rules and regulations governing, among other things: (a) the use of the Common Areas; (b) the use of any roads or utility facilities owned by the Association; (c) the collection and disposal of refuse; (d) uses and nuisances pertaining to the Property; and (e) all other matters concerning the use and enjoyment of the Property and the conduct of Owners and their invitees within the Development.

11.04 Limitation of Liability. No member of the Board acting in good faith shall be personally liable to any Owner, guest, lessee or any other person for any error or omission of the Association, its representatives and employees, the Board, any committee of the Board, or the Managing Agent.

ARTICLE XII

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BYLAWS

ASSESSMENTS

12.01 Personal Obligation and Lien. Each Owner shall, by acquiring or in any way becoming vested with his interest in a Lot, be deemed to covenant and agree to pay to the Association the annual, special assessments and Reimbursement Assessments described in this Article, together with late payment fees, interest and costs of collection, if and when applicable. All such amounts shall be, constitute, and remain: (a) a charge and continuing lien upon the Lot with respect to which such assessment is made until fully paid; and (b) the personal, joint and several obligations of the Owner or Owners of such Lot at the time the assessment falls due. No Owner may exempt himself or his Lot from liability for payment of assessments by waiver of his rights in the Common Areas or by abandonment of his Lot. In a voluntary conveyance of a Lot, the grantee shall be jointly and severally liable with the grantor for all such unpaid assessments, late payments fees, interest and costs of collection, including reasonable attorney's fees, which shall be a charge on the Lot at the time of the conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefore.

12.02 Purpose of Assessments. Assessments levied by the Association shall be used exclusively for the purpose of promoting the Development, the interests of the Owners therein, paying costs properly incurred by the Association, and the Maintenance, operation and caring of the Common Areas. The use made by the Association of funds obtained from assessments may include, but shall not be limited to, payment of the cost of: taxes and insurance on the Common Areas; pressurized irrigation in the Development; establishment and finding of a reserve to cover major repair or replacement of improvements within the Common Areas; and any expense necessary or desirable to enable the Association to perform or fulfill its obligations, functions or purposes under the Declaration or its Articles of Incorporation, Bylaws or rules and regulations.

12.03 Annual Assessments. Annual assessments shall be computed and assessed against all Lots in the Development based upon advance estimates of the Association's cash requirements to provide for payment of the cost of those items set forth in Section 12.02.

12.04 Annual Budget. Annual assessments shall be determined on the basis of a fiscal year beginning January 1 and ending December 31 next following, provided that first fiscal year shall begin on the date of recordation of this Declaration. On or before December 15 of each fiscal year the Association shall prepare and furnish to each Owner an operating budget for the upcoming fiscal year. The operating budget for the first fiscal year shall be prepared and furnished to each Owner within thirty (30) days of such Owner's initial purchase. The budget shall itemize the estimated cash requirements for such fiscal year, anticipated receipts, reserves, and any deficit or surplus from the prior operating period. The budget shall serve as the supporting document for the annual assessments for the upcoming fiscal year and as the major guideline under which the Development shall be operated during such annual period.

12.05 Notices and Payment of Annual Assessments. Except with respect to the fiscal period ending December 31, 2007, the Association shall notify each Owner as to the amount of the annual assessment against his Lot on or before December 15 of the year preceeding the year for which such annual assessment is made. Each annual assessment shall be payable in twelve (12) equal monthly installments, one such installment due on the first day of each calendar month during the fiscal year to which the assessment relates; provided, however, the annual assessments for the fiscal period ending December 31, 2007, shall be based

upon such portion of the calendar year 2007 as follows the date of recordation of the Declaration and shall be payable in such installments and at such times as the Association, in the sole discretion of its Board of Trustees, may determine. The failure of the Association to give timely notice of any annual assessment as provided herein shall not be deemed a waiver or modification in any respect of the provisions of the Declaration, or a release of any Owner from the obligation to pay such assessment or any other assessment; but the date when the payment shall become due in such case shall be deferred to a date fifteen (15) days after notice of such assessment shall have been given to the Owner in the manner provided in the Declaration.

12.06 Initial Fee. In addition, each Owner (other than Declarant), shall be required to prepay at the time of purchase of his Lot, whether as a first time or subsequent Owner, a sum of \$1000 which sum shall be in addition to any proration of assessment which may be due for the month in which such purchase takes place. Such fees shall become part of the Association's general fund.

12.07 Maximum Annual Assessment. Until January 1 of the calendar year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be \$3000 per Lot. From and after January 1 of the calendar year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased each calendar year thereafter by not more than twenty-five percent (25%) above the maximum annual assessment for the previous year without the vote of Owners entitled to cast a majority of the Association votes.

12.08 Special Assessments. The Association may levy special assessments for the purpose of defraying, in whole or in part: (a) any expense or expenses not reasonably capable of being fully paid with funds generated by annual assessments; or (b) the cost of any construction, reconstruction, or unexpectedly required addition to or replacement of the Common Areas. Any such special assessment shall be apportioned among and assessed to all Lots in the same manner as annual assessments. Such special assessments must be assented to by a majority of the votes of the membership, which Owners present in person or represented by proxy are entitled to cast at a meeting duly called for such purpose. Written notice setting forth the purpose of such meeting shall be sent to all Owners at least ten (10) but no more than thirty (30) days prior to the meeting date.

12.09 Uniform Rate of Assessment. All monthly and special assessments authorized by Sections 12.03 and 12.08, shall be fixed at a uniform rate for all Lots; provided, however, that until a Lot has been both fully improved with a Unit and occupied for the first time for residential purposes, the monthly and special assessments applicable to such Lot shall be one-third (1/3) of the monthly and special assessments which would otherwise apply to such Lot. During the period of time that Declarant holds the Class B membership in the Association if assessed fees collected by the Association fail to adequately meet Association expenses, then Declarant shall pay in excess of such one-third (1/3) partial assessment per Lot, up to full assessed amount, if necessary, to apply toward such expenses.

12.10 Quorum Requirements. The quorum at any Association meeting required for any action authorized by Section 12.08, above, shall be as follows: At the first meeting called, the presence of Owners or proxies entitled to cast sixty percent (60%) of the total votes of the Class A membership shall constitute a quorum. If a quorum is not present at the first meeting or any subsequent meeting, another meeting may be called (subject to the notice requirements set forth in Section 12.08, above) at which a quorum shall be one-half (1/2) 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.

12.11 Reimbursement Assessment on Specific Lot. In addition to the annual assessment and any special

assessment authorized pursuant to Section 13.08, above, the Board may levy at any time Reimbursement Assessments (a) on every Lot especially benefited (i.e., benefited to a substantially greater degree than any other Lot) by any improvement to adjacent roads, sidewalks, planting areas or other portions of the Common Areas made on the written request of the Owner of the Lot to be charged; (b) on every Lot the Owner or occupant of which shall cause any damage to the Common Areas necessitating repairs; and (c) on every Lot as to which the Association shall incur any expense for maintenance or repair work performed, or enforcement action taken, pursuant to any of the provisions of the Declaration. The aggregate amount of any such Reimbursement Assessment shall be determined by the cost of such improvements, repairs, maintenance or enforcement action, including all overhead and administrative costs, and all attorney's fees and costs, and shall be allocated among the affected Lots according to the magnitude of special benefit or cause of damage or maintenance or repair work or enforcement action, as the case may be, and such assessment may be made in advance of the performance of work. If a special benefit arises from any improvement, which is part of the general maintenance or operation obligations of the Association, it shall not give rise to a Reimbursement Assessment against the Lots benefited.

12.12 Certificate Regarding Payment. Upon the request of any Owner or prospective purchaser or encumbrance of a Lot and upon the payment of a reasonable fee to the Association to cover administrative costs, the Association shall issue a certificate stating whether or not payments of all assessments respecting such Lot are current and, if not, the amount of the delinquency. Such certificate shall be conclusive in favor of all persons who rely thereon in good faith.

12.13 Effect of Nonpayment; Remedies. Any assessment (whether annual, special or reimbursement assessment) not received within ten (10) days of the due date shall be subject to a late charge of Fifty dollars (\$50.00), or ten percent (10%) of the assessment, whichever is higher, which together with interest and costs of collection shall be, constitute, and remain a continuing lien on the affected Lot. If any assessment is not received within ten (10) days after the date on which it becomes due, the amount thereof shall also bear interest from the due date at the rate of one and one-half percent (1 ½%) per month; and the Association may bring an action against the Owner who is personally liable therefore or may foreclose its lien against the Lot, or both. Any judgment obtained by the Association in connection with the collection of delinquent assessments and related charges shall include attorney's fees, court costs, all costs of collection, and other expenses incurred by the Association in enforcing its rights.

12.14 Subordination of Lien to First Mortgages. The lien of the assessments provided herein shall be subordinate to the lien of any first Mortgage given in the first instance to a bank, savings and loan association, insurance company or other institutional lender; and the holder of any such Mortgage or purchaser who comes into possession of or becomes the Owner of a Lot by virtue of the foreclosure of such first Mortgage or the exercise of a power of sale under such first Mortgage, or by deed in lieu of foreclosure, shall take free of such assessment lien as to any assessment installment which accrues or becomes due prior to the time such holder or purchaser comes into possession or ownership of such Lot; provided that in the extent there are any proceeds of the sale on foreclosure of such first Mortgage or by exercise of such power of sale in excess of all amounts necessary to satisfy all indebtedness secured by and owed to the holder of such first Mortgage, the lien shall apply to such excess. No sale or transfer of a Lot in connection with any foreclosure of a first Mortgage shall relieve any Lot from the lien of any assessment installment thereafter becoming due.

12.15 No Abatement. No diminution or abatement of any assessments under the Declaration shall be claimed or allowed for inconvenience, annoyance or discomfort arising from (a) any construction (or lack of construction) within the Development; (b) the making of (or failure to make) any repairs or improvements to or the maintenance of any Common Areas of the Development, or any part thereof; or (c) from any action

taken to comply with the provision of the Declaration or with the laws, ordinances, regulations, rules, or orders of any governmental authority.

ARTICLE XIII

MISCELLANEOUS

13.01 Notice. Any notice required or permitted to be given to any Owner under the provisions of this Declaration shall be deemed to have been properly furnished if delivered or mailed, postage prepaid, to the person named as the Owner at the latest address for such person, as reflected in the records of the Association at the time of delivery or mailing. Any notice required or permitted to be given to the Association may be given by delivering or mailing the same to the Managing Agent or any officer or Trustee of the Association. Any notice required or permitted to be given to the Architectural Control Committee may be given by delivering or mailing the same to the Managing Agent or the Association or any member of the Architectural Control Committee.

13.02 Amendment. Except as provided below, this Declaration may be amended by, but only by, an instrument recorded in Utah County, Utah, which is executed by Owners (including Declarant) who collectively hold at least sixty percent (60%) of the total outstanding votes in the Association. The foregoing right of amendment shall, however be subject to the right to supplement this Declaration in the manner and to the extent provided for in Article III of this Declaration. In addition, such right of amendment shall be subject to the following qualification: no amendment to any provision of this Declaration which has the effect of diminishing or impairing any right, power, authority, privilege, protection, or control accorded to Declarant, (in its capacity as Declarant), or to a Mortgagee or the Association shall be accomplished or effective unless the instrument through which such amendment is purported to be accomplished is consented to in writing by Declarant, or by such Mortgagee, as the case may be.

13.03 Consent in Lieu of Vote. In any case in which this Declaration requires for authorization or approval of a transaction the assent or affirmative vote of a stated percentage or number of votes outstanding in the Association or of the Owners, such requirement may be fully satisfied by obtaining, with or without a meeting, consents in writing to such transaction from Owners entitled to cast at least the stated percentage or number of all membership votes then outstanding in Association, unless a higher percentage or a greater number is required by law. The following additional provisions shall govern any application of this Section 13.03:

- (a) All necessary consents must be obtained prior to the expiration of ninety (90) days after any Owner gives the first consent.
- (b) The total number of votes required for the applicable authorization or approval shall be determined as of the date on which the last consent is signed.
- (c) Any change in Ownership of a Lot, which occurs after consent has been obtained from the Owner thereof, shall not be considered or taken into account for any purpose.
- (d) Unless the consent of all Owners whose memberships are appurtenant to the same Lot is secured, the consent of none of such Owners shall be effective.

13.04 Declarant's Rights Assignable. All or any portion of the rights of Declarant under this Declaration

or in any way relating to the Property may be assigned.

13.05 Interpretation. The captions which precede the Articles and Sections of this Declaration are for convenience only and shall in no way affect the manner in which any provision hereof is construed. Whenever the context so requires, the singular shall include the plural, the plural shall include the singular, and any gender shall include both genders. The invalidity or unenforceability of any portion of this Declaration shall not affect the validity or enforceability of the remainder hereof, which shall remain in full force and effect. The laws of the State of Utah shall govern the validity, construction and enforcement of this Declaration.

13.06 Condemnation. If at any time or times an insubstantial or minor part of the Common Areas or any part thereof shall be taken or condemned by any authority having the power of eminent domain, all compensation and damages shall be payable to the Association, and shall be used by the Association to the extent necessary for restoring or replacing any improvements on the remainder of the Common Areas. In the event of any other taking or condemnation, the interests of the Association, the Owners and Mortgagees shall be as they may appear.

13.07 Covenants to run with land. This Declaration and all the provisions hereof shall constitute covenants to run with the land or equitable servitudes, as the case may be, and shall be binding upon and shall inure to the benefit of Declarant, all parties who heretofore acquired or hereafter acquire any interest in a Lot, their respective grantees, transferees, heirs, devisees, personal representatives, successors, and assigns. Each Owner or occupant of a Lot or Unit shall comply with, and all interests in all Lots or in the Common Areas shall be subject to, the terms of this Declaration and the provisions of any rules, regulations, agreements, instruments, and determinations contemplated by this Declaration. By acquiring any interest in a Lot or Unit, the party acquiring such interest consents to, and agrees to be bound by, each and every provision of this Declaration.

13.08 Enforcement of Restrictions. The following persons shall have the right to exercise or seek any remedy at law or inequity to interpret, to enforce compliance with or to obtain redress for violation of this Declaration:

- (a) Any Owner;
- (b) The Association; or
- (c) Any Mortgagee.

The prevailing party in an action for the interpretation of, the enforcement of or to obtain redress for violation of any provisions of this Declaration shall be entitled to collect court costs, costs of collection and reasonable attorney's fees.

13.09 Duration. This Declaration shall remain in effect until such time as there is recorded in Salt Lake County, Utah, an instrument of termination which is executed by all of the parties required by Section 13.02 hereof, plus the Mortgagee of each and every Lot.

13.10 Right to Expand or Continue. This Development may be expanded and continued by Declarant, its assigns or successors without the requirement of consent by any Owners in the initial phase as described herein, for a period of 10 years following the date of this Declaration. Such expansion or continuation may include an extension of these covenants and restrictions to new development, or

amendment as provided for herein.

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

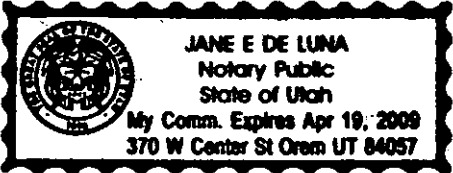
EXECUTED by Declarant on the day and year first above written.

By: *[Signature]*
Sterling Barnes Managing Member

STATE OF UTAH)
: ss.
COUNTY OF UTAH)

On this 31st day of January, 2007, personally appeared before me *Sterling Barnes* who, being by me duly sworn, did say that he is the Managing Member of *Vineyard Shores, LLC*, a Utah Limited Liability Company; that said instrument was signed by him in behalf of said company pursuant to authority; and that said company executed the same.

NOTARY PUBLIC



[Signature]

EXHIBIT A

To

**DECLARATION OF EASEMENTS, COVENANTS,
CONDITIONS AND RESTRICTIONS**

Of

**THE SHORES SUBDIVISION
A Subdivision (Expandable)**

Located in Vineyard, Utah County, Utah

A PARCEL OF LAND SITUATED IN THE EAST HALF OF SECTION 18, TOWNSHIP 6 SOUTH, RANGE 2 EAST, SALT LAKE BASE AND MERIDIAN, AND LOCATED IN THE TOWN OF VINEYARD UTAH COUNTY, UTAH AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT BEING SITUATED SOUTH 89°38'03" WEST ALONG THE EXTENSION OF THE CENTER SECTION LINE OF SECTION 17, AS DEFINED BY THE FOUND BRASS CAP MONUMENTS MARKING THE EAST AND THE WEST QUARTER CORNER OF SECTION 17, FROM THE EAST QUARTER OF SAID SECTION 18, 1976.04 FEET, AND RUNNING THENCE SOUTH 06°22'16" WEST 23.66 FEET TO A POINT ON A 85.00 FOOT NON TANGENT RADIUS CURVE TO THE RIGHT; THENCE SOUTHEASTERLY 69.02 FEET ALONG THE ARC OF SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 46°31'16" BEARING TO CENTER SOUTH 10°46'19" EAST (CHORD BEARING SOUTH 77°30'41" EAST 67.14 FEET) TO A POINT OF A 35.00 FOOT RADIUS CURVE TO THE RIGHT; THENCE SOUTHEASTERLY 17.64 FEET ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 28°52'28" (CHORD BEARING SOUTH 39°48'49" EAST 17.45 FEET) TO A POINT OF A 285.00 FOOT RADIUS CURVE TO THE RIGHT; THENCE SOUTHEASTERLY 120.92 FEET ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 24°18'34" (CHORD BEARING SOUTH 13°13'18" EAST 120.01 FEET); THENCE SOUTH 01°04'01" EAST 856.86 FEET TO A POINT OF A 21.00 FOOT RADIUS CURVE TO THE RIGHT; THENCE SOUTHWESTERLY 33.00 FEET ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 90°03'00" (CHORD BEARING SOUTH 43°57'29" WEST 29.71 FEET); THENCE SOUTH 88°58'59" WEST 13.98 FEET; THENCE SOUTH 01°04'01" EAST 56.00 FEET; THENCE NORTH 88°58'59" EAST 14.00 FEET TO A POINT OF 21.00 FOOT RADIUS CURVE TO THE RIGHT; THENCE SOUTHEASTERLY 32.99 FEET ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 90°00'00" (CHORD BEARING SOUTH 46°04'01" EAST 29.70 FEET); THENCE SOUTH 01°04'01" EAST 1024.06 FEET TO A BOUNDARY LINE AGREEMENT RECORDED AS ENTRY NO. 152258 IN 2006 AS OF OFFICIAL RECORDS ON FILE IN THE OFFICE OF THE UTAH COUNTY RECORDER; THENCE SOUTH 89°45'29" WEST 121.97 FEET ALONG SAID BOUNDARY LINE AGREEMENT; THENCE SOUTH 89°59'50" WEST ALONG SAID BOUNDARY LINE AGREEMENT 17.39 FEET MORE OR LESS TO THE 1856 MEANDER LINE OF UTAH LAKE AS DEFINED BY THAT SURVEY PERFORMED BY THE GOVERNMENT LAND OFFICE IN 1856 OF OFFICIAL RECORDS; THENCE NORTH 31°10'54" WEST ALONG SAID MEANDER LINE 660.49 FEET; THENCE NORTH 17°31'58" WEST 361.55 FEET ALONG SAID MEANDER LINE; THENCE LEAVING SAID MEANDER LINE NORTH 03°56'53" WEST 27.03 FEET; THENCE NORTH 17°16'12" WEST 132.23 FEET; THENCE NORTH 35°59'43" WEST 20.14 FEET MORE OR LESS TO THE AFORESAID MEANDER LINE; THENCE NORTH 02°01'53" WEST 345.13 FEET ALONG SAID MEANDER LINE; THENCE LEAVING SAID MEANDER LINE NORTH 10°23'00" EAST 22.88 FEET; THENCE NORTH 13°30'29" EAST 145.72 FEET; THENCE NORTH 04°44'12" EAST 157.91 FEET; THENCE NORTH 05°33'09" WEST 142.79 FEET; THENCE NORTH 0°19'35" WEST 204.96 FEET; THENCE NORTH 02°49'19" WEST 229.75 FEET; THENCE NORTH 08°31'51" WEST 86.75 FEET; THENCE NORTH 01°45'37" WEST 187.41 FEET; THENCE NORTH 05°43'53" EAST 139.00 FEET; THENCE NORTH 19°27'12" EAST 98.36 FEET; THENCE NORTH 02°24'15" WEST 125.35 FEET; THENCE NORTH 16°34'43" EAST 78.81 FEET; THENCE NORTH 27°18'36" EAST 62.16 FEET TO A BOUNDARY LINE AGREEMENT RECORDED AS ENTRY NO.: 138759 IN 2004 AS OF OFFICIAL RECORDS ON FILE IN THE OFFICE OF THE UTAH COUNTY RECORDER; THENCE NORTH 89°59'45" EAST ALONG SAID BOUNDARY LINE AGREEMENT 499.37; THENCE SOUTH 01°04'01" EAST 757.21 FEET TO A POINT OF A 315.00 FOOT RADIUS CURVE TO THE LEFT; THENCE SOUTHEASTERLY 49.43 FEET

ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 08°59'28" (CHORD BEARING SOUTH 05°33'45" EAST 49.38 FEET); THENCE SOUTH 22°51'36" WEST 30.77 FEET TO A POINT ON A 73.00 FOOT NON TANGENT RADIUS CURVE TO THE RIGHT; THENCE SOUTHWESTERLY 28.34 FEET ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 22°14'46" BEARING TO CENTER NORTH 79°20'00" WEST (CHORD BEARING SOUTH 21°47'23" WEST 28.16 FEET); TO A POINT OF A 23.00 FOOT RADIUS CURVE TO THE RIGHT; THENCE SOUTHWESTERLY 13.41 FEET ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 33°24'17" (CHORD BEARING SOUTH 49°36'55" WEST 13.22 FEET); TO A POINT OF A 223.00 FOOT RADIUS CURVE TO THE RIGHT; THENCE SOUTHWESTERLY 32.31 FEET ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 08°18'03" (CHORD BEARING SOUTH 70°28'05" WEST 32.28 FEET); THENCE SOUTH 74°37'06" WEST 32.98 FEET; THENCE SOUTH 06°22'16" WEST 46.65 FEET TO THE POINT OF BEGINNING.

CONTAINS: 1,618,505 SQUARE FEET OR 37.16 ACRES. MORE OR LESS