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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

OF

THE COVE AT JORDAN RIVER TOWNHOUSES - PHASES 1 AND 2

(A Planned Unit Development)

(Expandable for future phases)

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**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
OF
THE COVE AT JORDAN RIVER TOWNHOUSES**

This Declaration of Covenants, Conditions and Restrictions, hereinafter referred to as the "Declaration" is made and executed this ____ day of _____, 2007, by The Cove at Jordan River, LLC, a Utah limited liability company, hereinafter referred to as the "Declarant."

1. RECITALS.

1.1. Declarant intends, by this Declaration, to create a townhouse project which, if and when the project is expanded to include the Additional Land, will consist of up to a maximum of thirty-four (34) Buildings, each Building containing between four (4) and ten (10) townhouse Units, for a total of up to a maximum of one-hundred seventy-nine (179) Units, to be constructed in multiple phases (the "Project"). Phase I of the Project shall consist of five (5) Buildings and a total of twenty-three (23) Units. Phase II of the Project shall consist of twelve (12) Units and the clubhouse. Phases I and II will be constructed simultaneously. The Project is located within the boundaries of the City of Saratoga Springs, Utah County, State of Utah.

1.2. The Project is a planned unit development or "PUD" project, with common areas and facilities to be managed and maintained by and through a home owners association. The Project is not a condominium project, and it is not subject to the provisions of the Utah Condominium Ownership Act of Sections 57-8-1 et seq. of the Utah Code.

1.3. The covenants, conditions and restrictions contained in this Declaration and in the Exhibits hereto shall be enforceable equitable servitudes and shall run with the land.

NOW, THEREFORE, for the foregoing purposes, the Declarant adopts the following covenants, conditions and restrictions to govern the development, use, maintenance and management of this townhouse project:

2. DEFINITIONS.

Unless the context clearly indicates otherwise, certain terms as used in this Declaration and the foregoing Recitals shall have the meanings set forth in this Section 2.

2.1. Act shall mean the Community Association Act (Title 57; Chapter 8a, Utah Code, as amended).

2.3. Additional Land shall mean the land that may be added to the Project as described in Section 1.2 above and pursuant to the provisions of Section 4 below. A metes and bounds description of the Additional Land is attached hereto as Exhibit C.

2.2. Amendment shall mean any amendment to this Declaration made in accordance with the Declaration and the Act.

2.3. Assessable Unit shall mean each Unit, except for Exempt Units.

2.4. Association shall mean The Cove at Jordan River Owners Association, Inc., a Utah nonprofit corporation.

2.5. Board shall mean the Board of Directors of the Association, appointed or elected in accordance with this Declaration and the Bylaws.

2.6. Building(s) shall mean the buildings constructed as part of the Project, as described in Section 3.2.

2.7. Bylaws shall mean the Bylaws of the Association, a copy of which is attached hereto as Exhibit B, as amended from time to time.

2.8. Capital Improvement shall mean any improvement with a useful life of more than three (3) years.

2.9. Common Areas and Facilities shall mean all portions of the Project other than the Units, as described in Section 6.1 hereof, including, without limitation, the club house and pool.

2.10. Common Assessments shall mean those assessments described in Section 19 to fund the Common Expenses, and include Regular Common Assessments and Special Common Assessments.

2.11. Common Expense Account shall mean one or more deposit or investment accounts of the Association into which are deposited the Common Assessments.

2.12. Common Expenses shall mean all expenses of the administration, maintenance, repair, or replacement of the Common Areas and Facilities and all other expenses denominated as Common Expenses by this Declaration or by the Act.

2.13. Common Wall(s) means the walls in each Building that divide and are located between any two (2) adjoining Units in a Building. The Common Walls are used by the Owners of adjoining Units in a Building, and are subject to the provisions of Sections 7.1 through 7.4 herein.

2.14. Cost of Living Index shall mean the Consumer Price Index for Urban Wage Earners and Clerical Workers: U.S. City Average, All Items 1967 = 100 compiled by the Bureau of Labor Statistics, United States Department of Labor. The Index for December 1982-1984 is the reference base index. Declarant may select any other comparable index that measures changes in the cost of living.

2.15. Declarant shall mean The Cove at Jordan River, LLC, a Utah limited liability company, and its successors and assigns.

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

2.17. Exempt Unit(s) shall mean each Unit in the Project while owned by Declarant or a Declarant affiliate, until the earliest to occur of (i) the acquisition of title to the Unit by a person or entity other than Declarant or a Declarant Affiliate, or (ii) the one hundred eightieth (180th) day after the municipal authority having jurisdiction thereover issues a certificate of occupancy for the Unit.

2.18. Lease shall mean any agreement for the leasing or rental of any portion of the Project.

2.19. Limited Common Areas and Facilities shall mean a portion of the Common Areas and Facilities allocated by the Declaration or the Act, and as may be shown on the Plat, for the exclusive use of one or more, but fewer than all, of the Units.

2.20. Manager shall mean the person, firm or company, if any, designated from time to time by the Association to manage, in whole or in part, the affairs of the Association and the Project.

2.21. Mortgage shall mean any mortgage, deed of trust or other security instrument by which a Unit or any part thereof or interest therein is encumbered. A First Mortgage is a Mortgage having priority as to all other Mortgages encumbering a Unit or any part thereof or interest therein.

2.22. Option Agreement shall mean that certain Option to Purchase Real Property, pursuant to which a portion of the land included in the Common Areas of the Project shall be conveyed and transferred to Old Towne Square, LLC if the option is exercised in accordance with the terms and provisions of the Option Agreement, as explained in Section 6.3 below.

2.23. Mortgagee shall mean (i) any persons or entities named as the mortgagee or beneficiary under any Mortgage by which the interest of any Owner is encumbered, (ii) any successor to the interest of such person or entity under such Mortgage, or (iii) any insurer or guarantor of such person or entity under such Mortgage.

2.24. Owner shall mean any person or entity at any time owning in fee simple a Unit within the Project as such ownership is shown by the records of the County Recorder of Utah County, State of Utah. The term "Owner" shall not refer to any Mortgagee, unless such Mortgagee has acquired title for other than security purposes.

2.25. Plat shall mean the plat(s) for The Cove at Jordan River – A Planned Unit Development (for Phase I, Phase II and all other phases for the Additional Land), filed of record in the office of the County Recorder of Utah County, State of Utah.

2.26. Project shall mean the Property, Buildings, the Units, the Common Areas and Facilities and all improvements constructed on the Property, as approved by the applicable governmental authorities. The term "Project" shall include, if and when added, any Additional Land, Units, Buildings, the Common Areas and Facilities and all other improvements on such Additional Land.

2.27. Property shall mean that certain real property situated in the County of Utah, State of Utah, more particularly described in Section 3 below, on which the Units, Buildings, and other improvements are or will be located. The term "Property" shall include, if and when added, any Additional Land.

2.28. Regular Common Assessments shall mean the annual assessments levied by the Association to pay the budgeted Common Expenses.

2.29. Special Common Assessments shall mean assessments, which the Association may levy from time to time, in addition to the Regular Common Assessments, for unexpected Common Expenses or other purposes as provided herein.

2.30. Total Votes of the Association shall mean the total number of votes appertaining to all Units, as described in Section 20 hereof.

2.31. Unit shall mean each townhouse within the Project designed for separate ownership and occupancy as described in Section 5 hereof. The term "Unit" shall include, if and when added, Units created and built on the Additional Land.

2.32. Unit Number shall mean the number, letter or combination of numbers and letters that identifies only one Unit in the Project.

3. DESCRIPTION OF PROPERTY AND PRIMARY CONSTRUCTION MATERIALS.

3.1. The Property on which the Units and improvements are located is situated in Utah County, Utah, located within a portion of Section 14, Township 5 South, Range 1 West, Salt Lake Base and Meridian, Saratoga Springs City, Utah, and more particularly described (with respect to Phase I and Phase II) as follows:

PART OF SECTION 14, TOWNSHIP 5 SOUTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTH QUARTER CORNER OF SECTION 14, TOWNSHIP 5 SOUTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN. RUNNING THENCE NORTH 00°36'52" EAST (NORTH, BY RECORD) ALONG THE EAST RIGHT OF WAY LINE OF REDWOOD ROAD, 2625.10 FEET; THENCE EAST 65.49 FEET (94.55 BY RECORD); THENCE NORTH, 27.99 FEET; THENCE NORTH 89°50'01" EAST ALONG AN EXISTING FENCELINE, 1285.47 FEET; THENCE ALONG FENCELINE NORTH 00°09'32" EAST, 805.53 FEET (805.875, B.R.) TO AN EXISTING FENCE CORNER; THENCE EAST ALONG AN EXISTING FENCELINE, 544.28 FEET TO THE TRUE POINT OF BEGINNING.

THENCE EAST ALONG AN EXISTING FENCELINE, 683.29 FEET;
 THENCE NORTH 01°21'07" WEST, 236.59 FEET TO A FOUND RIGHT-OF-WAY MARKER OF 8750 NORTH STREET;
 THENCE ALONG SAID RIGHT-OF-WAY THE FOLLOWING 2 COURSES:

1. NORTH 88°37'48" EAST, 49.64 FEET TO A FOUND RIGHT-OF-WAY MARKER AND EXISTING FENCE CORNER;

2. NORTH 17°32'06" EAST ALONG SAID FENCE, 56.72 FEET;
 THENCE LEAVING THE FENCELINE AND RUNNING SOUTH 01°21'07"
 EAST, 293.56 FEET; THENCE TO THE RIGHT ALONG A 114.00 FOOT
 RADIUS CURVE, WITH A LENGTH OF 161.25 FEET, CHORD BEARS
 SOUTH 39°10'10" WEST, 148.14 FEET, WITH A DELTA OF 81°02'34";
 THENCE TO THE LEFT ALONG A 666.00 FOOT RADIUS CURVE, A
 LENGTH OF 209.89 FEET, CHORD BEARS SOUTH 70°39'45" WEST, 209.02
 FEET, WITH A DELTA OF 18°03'23"; THENCE TO THE LEFT ALONG A
 1166.00 FOOT RADIUS CURVE, A LENGTH OF 258.43 FEET, CHORD
 BEARS SOUTH 55°17'05" WEST, 257.90 FEET, WITH A DELTA OF
 12°41'57"; THENCE NORTH 41°03'53" WEST, 121.73 FEET; THENCE
 WEST, 127.98 FEET; THENCE NORTH 49°41'15" WEST, 23.44 FEET;
 THENCE NORTH 71°49'18" WEST, 50.24 FEET; THENCE NORTH, 38.50
 FEET; THENCE NORTH 44°25'58" EAST, 35.71 FEET; THENCE NORTH,
 146.00 FEET TO POINT OF BEGINNING.

CONTAINING 3.94 ACRES MORE OR LESS.

ALSO AND ALONG WITH:

PART OF SECTION 14, TOWNSHIP 5 SOUTH, RANGE 1 WEST, SALT
 LAKE BASE AND MERIDIAN DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTH QUARTER CORNER OF SECTION 14,
 TOWNSHIP 5 SOUTH, RANGE 1 WEST, SALT LAKE BASE AND
 MERIDIAN. RUNNING THENCE NORTH 00°36'52" EAST (NORTH, BY
 RECORD) ALONG THE EAST RIGHT OF WAY LINE OF REDWOOD
 ROAD, 2625.10 FEET; THENCE EAST 65.49 FEET (94.55 BY RECORD);
 THENCE SOUTH 89°50'01" EAST, 1313.39 FEET; THENCE NORTH
 89°16'40" EAST TO A THE WEST BANK OF THE JORDAN RIVER, 750.97
 FEET; THENCE FOLLOWING THE SAID BANK IN A NORTHEASTERLY
 DIRECTION THE FOLLOWING 2 COURSES:

1. NORTH 52°45'07" EAST, 91.02 FEET;
2. NORTH 39°58'43" EAST, 198.88 FEET TO THE TRUE POINT OF
 BEGINNING.

THENCE LEAVING SAID BANK NORTH 50°01'17" WEST, 65.09 FEET;
 THENCE NORTH 18°10'47" EAST, 138.16 FEET; THENCE NORTH 37°14'10"
 EAST, 109.59 FEET; THENCE NORTH 59°37'35" EAST, 142.33 FEET;
 THENCE SOUTH 59°58'26" EAST, 49.01 FEET TO SAID WEST BANK OF
 THE JORDAN RIVER; THENCE FOLLOWING SAID BANK IN A
 SOUTHWESTERLY DIRECTION THE FOLLOWING 4 COURSES:

1. SOUTH 29°20'24" WEST, 150.16 FEET;
 2. SOUTH 32°59'19" WEST, 74.40 FEET;
 3. SOUTH 45°09'00" WEST, 125.01 FEET;
 4. SOUTH 39°58'43" WEST, 34.32 FEET TO THE POINT OF BEGINNING.
- CONTAINING 0.86 ACRES MORE OR LESS.

3.2. The Buildings in the Project will be principally constructed of the following materials: Wooden frames with load bearing or non-load bearing walls studded with wood; hardiplank siding; glass openings; wooden joist floors and roofs; roof surfaces with asphalt shingles; interior walls surfaced with gypsum sheets. Each Building will be two (2) levels above ground. Some Buildings may have optional basements. The exterior finishes will include stucco, siding, and masonry products.

4. CONFIRMATION OF SUBMISSION TO ACT.

4.1 Declarant hereby confirms and acknowledges that the Project is subject to the provisions of the Act. All of said Project is and shall be held, conveyed, hypothecated, encumbered, leased, subleased, rented, used and improved as a planned unit development known as The Cove at Jordan River Townhouses. All of said Project is and shall be subject to the covenants, conditions, restrictions, uses, limitations and obligations set forth herein, each and all of which are declared and agreed to be for the benefit of said Project; further, each and all of the provisions hereof shall be deemed to run with the land and shall be a burden and a benefit on the Property and shall be binding on any person acquiring, leasing, subleasing or owning an interest in the real property and improvements comprising the Project, their assigns, lessees, sublessees, heirs, executors, administrators, devisees and successors.

4.2 The Project is expandable and may include any or all of the Additional Land. Declarant has the absolute right and option, but not the obligation, to expand the Project by adding any portion or all of the Additional Land. There are no limits to Declarant's option to expand the Project nor shall such expansion require the consent or approval of any Unit Owners. The term of Declarant's option to expand the Project shall be ten (10) years beginning on the date this Declaration is recorded, and cannot be terminated at any time, except by Declarant. Declarant can add any portion of the Additional Land to the Project at any time and from time to time as determined by Declarant in its sole and absolute discretion. There are no limitations or requirements limiting Declarant's rights in that regard, and Declarant can add any portion of such Additional Land to the Project at any time upon meeting the recording and other requirements of the Act. Declarant may designate portions of the Additional Land added to the Project as Phases, but it is not obligated to identify the Additional Land involved in each subsequent Phase (after Phase I and Phase II), nor the order in which such Additional Land will be added to the Project, if at all. No assurances can be made regarding the location of improvements on any portions of the Additional Land, and Declarant has the sole and absolute discretion to place any such improvements as it deems appropriate. The maximum number of Units that may be created on the Additional Land is one hundred forty-four (144) and the maximum number of Units per acre that may be created on any portion of Additional Land added to the Project is 12 Units per acre.

4.3 All Units on the Additional Land shall be restricted to residential use in accordance with, and subject to all the use restrictions described in, Section 10 below. Therefore, no portion of the Additional Land or the floor area of any of the Buildings or Units on the Additional Land shall be used for any uses other than residential purposes. While the Declarant believes that any improvements including the Units constructed on the Additional Land will be compatible with structures in Phase I and Phase II of the Project in terms of quality

of construction, materials and style, no assurances are made in those regards. Similarly, other than the restriction on the use of the Units described above, no assurances are made regarding (i) what type of improvements, or the description of the improvements, that will be made on any portion of the Additional Land, (ii) what type of Units may be created on any portion of the Additional Land, or (iii) the existence of, or the types, sizes or maximum number of limited common areas within any portion of the Additional Land.

4.4 No part of the Additional Land shall be deemed to be a part of the Project and the Project shall not be expanded until and unless Declarant or its agent records a plat for such Additional Land (or part of it) and an instrument submitting such Additional Land (or part of it) to the terms and provisions of this Declaration.

5. DESCRIPTION OF UNITS.

The boundary lines of each Unit are as set forth on the Plat and consist of the interior surfaces of its perimeter walls, bearing walls, floors, ceilings, and the windows and doors of each Unit. In addition, each Unit shall consist of the airspace above and the subsurface below the land and all of the area and improvements above and below the surface of the land and within and part of the vertical boundaries defined by the Unit lines shown on the Plat, extended upwards to the heavens and downward to the center of the earth. Each Unit shall further include the garages, if any, pertaining to or containing within each Unit. By this provision, the Declarant intends each Unit to be comprised of all of the physical improvements that pertain solely to the area in which the Unit is located or pertain solely to the improvements of that Unit, including, without limitation, all physical facilities, installations, lines, foundations, equipment, tanks, pumps, pipes, vents, ducts, shafts, flues, chutes, conduits, wires and other utility installations that connect or provide service only to the applicable Unit. Without limitation, a Unit shall include any finishing material applied or affixed to the interior surfaces of the interior walls, floors and ceilings; interior walls that support only the improvements within the Unit and are not supportive or load-bearing for the Building as a whole or for any other Units; and all utility outlets, fixtures or appliances found within the boundary lines of the Unit and servicing only that Unit.

The following items shall not be included in the definition of a Unit: the exterior surfaces of the Buildings, the roofs of the Buildings, the driveways, and any and all physical facilities, installations, structural beams, foundations, equipment, pumps, pipes, vents, ducts, shafts, flues, chutes, conduits, wires and utility installations that provide service to, support or covering for, or otherwise pertain to two (2) or more Units.

6. DESCRIPTION AND OWNERSHIP OF COMMON AREAS AND FACILITIES.

6.1. The Common Areas and Facilities shall mean and include those portions of the Property that are not part of the Units, as well as the open space areas of the Project, the common landscaping of the Project, and the non-public roadways, streets and walkways, if any, within the Project, as well as any other areas in the Project designated as part of the Common Areas and Facilities on the Plat, including, without limitation, the club house, pool, and common parking area near the club house. The Common Areas and Facilities shall mean and include, but not by way of limitation, the foundation, columns, girders, beams, supports, exterior and bearing walls that provide support for, or are load-bearing for, two (2) or more Units or a Building as a whole.

The Common Areas and Facilities also include the roofs and rooftops of the Buildings; the grounds and certain parking areas in the Project, if any, designated as part of the Common Areas and Facilities on the Plat; all apparatuses and installations existing for common use; all utility pipes, lines or systems provide water or sewer service to two (2) or more Units; and all repairs, maintenance, clearing (snow), and replacements of any of the foregoing. Parking stalls, if any, which are Common Areas and Facilities may be utilized for locating trash containers and similar items if needed by the Association.

6.2. The Common Areas and Facilities in the Project shall be owned by the Association, and the recordation of the Plat(s) shall operate to convey title to all Common Areas and Facilities to the Association.

6.3. A relatively small portion of the land comprising the Common Areas of the Project shall be, and is, encumbered by and subject to the terms and provisions of the Option Agreement (as defined in Section 2.22 above). A copy of the Option Agreement is on file with the Declarant and with the Association, and shall be provided to any Owner or prospective buyer of a Unit upon request. As set forth in the Option Agreement, Old Towne Square, LLC, a Utah limited liability company, has dedicated certain land to the City of Saratoga Springs in order for the Project to have the necessary width of access road. In exchange for such dedication, Old Towne Square, LLC has obtained the right to exercise an option to acquire a certain portion of the land included in the Common Area of this Project, pursuant to the terms and conditions set forth in the Option Agreement. All Owners, buyers and prospective buyers of Units at this Project, by acquiring title to a Unit, shall be irrevocably deemed to understand, consent to, and accept the obligations and requirements of the Option Agreement, including, without limitation, the obligation of the Association (on behalf of itself and all Owners) to execute and deliver a deed conveying the Option Property to Old Towne Square, LLC, upon said entity's timely exercise of the option and performance of the terms of the Option Agreement. The Association shall be, and is, authorized and instructed to execute and deliver such deed to Old Towne Square, LLC upon said entity's timely exercise of the option and performance of the terms of the Option Agreement. None of the Units or physical improvements of the Project are or will be located upon the Option Property.

7. DESCRIPTION OF LIMITED COMMON AREAS AND FACILITIES.

7.1. Limited Common Areas and Facilities shall mean any portion of the Common Areas and Facilities reserved for the use of certain Owners to the exclusion of other Owners, including but not limited to any porches, balconies, patios, attics, rear and side yards, driveways, gardens and courtyards and other areas as indicated by the Declaration, the Plat or the Act to be for the exclusive use of one or more but fewer than all of the Units. Mechanical systems serving only certain Units, but not all Units, shall be Limited Common Areas and Facilities with respect to the Units which they serve. Owners may not reallocate Limited Common Areas and Facilities between or among Units in which they have an interest.

8. NATURE AND INCIDENTS OF UNIT OWNERSHIP.

8.1. Each Unit is a parcel of real property which may be separately held, conveyed, devised, mortgaged, encumbered, leased, rented, used, occupied, improved and otherwise affected in accordance with the provisions of this Declaration.

8.2. Subject to the limitations contained in this Declaration, each Owner shall have the non-exclusive right to use and enjoy the Common Areas and Facilities and the exclusive right to occupy and use their Unit and any Limited Common Areas and Facilities designated for exclusive use by such Owner or all Owners.

8.3. Except as otherwise provided herein, each Owner shall have the exclusive right to paint, repaint, tile, wax, paper, carpet or otherwise decorate the interior surfaces of the walls, ceilings, floors and doors forming the boundaries of their Unit and the surfaces of all walls, ceilings, floors and doors within such boundaries. Each Owner shall keep the interior of their Unit, including without limitation, interior walls, windows, ceilings, floors and permanent fixtures and appurtenances thereto, in a sanitary condition and in a good state of repair. In addition, each Owner shall keep their garage, if any, including without limitation any garage door, in a good state of repair. In the event that any such Unit should develop an unsanitary condition or fall into a state of disrepair and in the event that the Owner of such Unit should fail to correct such condition or state of disrepair promptly following written notice from the Board, the Board shall have the right, at the expense of the Owner and without liability to the Owner for trespass or otherwise, to enter said Unit (including any garage) and correct or eliminate said unsanitary condition or state of disrepair. Owners of adjoining Units may not reallocate or change the boundaries of such Units. Except as otherwise provided herein, no Owners may subdivide their Unit(s).

8.4. The Board shall have the right to enter into any Unit for the purpose of cleaning, maintenance, repairs, including emergency repairs, and for the purpose of abating a nuisance, or a known or suspected dangerous or unlawful activity, and for the purpose of cleaning, maintaining or repairing any Common Areas and Facilities.

9. TITLE TO UNITS.

9.1. Title to a Unit within the Project may be held or owned by any person or entity and in any manner in which title to any other real property may be held or owned in the State of Utah.

9.2. Title to part of a Unit within the Project may not be separated from any other part thereof during the period of ownership, and each Unit shall always be conveyed, devised, encumbered and otherwise affected only as a complete Unit. Every gift, devise, bequest, transfer, encumbrance, conveyance or other disposition of a Unit, or any part thereof, shall be construed to be a gift, devise, bequest, transfer, encumbrance or conveyance, respectively, of the entire Unit, together with all appurtenant rights created by law and by this Declaration, including appurtenant membership in the Association as herein set forth.

9.3. No Owner shall be permitted to timeshare or to allow any other form of interval ownership or interval right-to-use form of timesharing of any Unit within the Project.

9.4. The Common Areas and Facilities shall be owned in common by all of the Owners, and no Owner may bring any action for partition thereof.

9.5. Each Owner shall have the right to encumber his interest in a Unit with a Mortgage. However, no Owner shall attempt to or shall have the right to encumber the Common Areas and Facilities or any part thereof. Any Mortgage of any Unit within the Project shall be subordinate to all of the provisions of this Declaration, and in the event of foreclosure the provisions of this Declaration shall be binding upon any Owner whose title is derived through foreclosure by private power of sale, judicial foreclosure, or otherwise.

9.6. No labor performed or services or materials furnished with the consent of or at the request of an Owner may be the basis for the filing of a lien against the Unit of any other Owner, or against any part thereof, or against any other property of any other Owner, unless the other Owner has expressly consented to or requested the performance of such labor or furnishing of such services. Express consent shall be deemed to have been given by the Owner in the case of emergency repairs thereto. Labor performed or services or materials furnished for the Project, if authorized by the Association and provided for in the Declaration, shall be deemed to be performed or furnished with the express consent of each Owner. The Owner may remove his Unit from a lien against two or more Units or any part thereof by payment to the holder of the lien of the fraction of the total sums secured by such lien which is attributable to his Unit.

9.7. Every contract for the sale of a Unit and every other instrument affecting title to a Unit within the Project may describe a Unit by the name of the Project, the county wherein the Project is located and its Unit Number as indicated in this Declaration or as shown on the Plat. Such description will be construed to describe the Unit, and to incorporate all the rights incident to ownership of a Unit within the Project and all of the limitations on such ownership as described in this Declaration.

10. RESTRICTIONS ON USE.

The Units and Common Areas and Facilities, including but not limited to the Limited Common Areas and Facilities, except as otherwise permitted in writing by the Board, shall be used in accordance with the following restrictions:

10.1. All Units are intended to be used for single-family residential housing purposes and are restricted to such use, provided, however, that home-based businesses which have no impact on the Project beyond the ordinary impact of residential use are permissible.

10.2. No noxious, destructive or offensive activity shall be carried on or placed in or upon any Unit, or in the Common Areas, or Limited Common Areas, or any part thereof, which shall interfere with the legal rights of other Owners nor shall anything be done therein which is or may become an annoyance or nuisance to any other Owner or to any person at any time lawfully residing in the Project. No activities shall be conducted, nor improvements constructed, in or upon any part of the Project which are or may become unsafe or hazardous to any person or property. Without limiting the breadth of the foregoing, aluminum foil, newspapers, or any other similar materials may not be used to cover the windows in any Unit. The Common Areas and Facilities shall be used only in a manner which is consistent with their community nature and the

use restrictions applicable to the Units. Without limiting the breadth of the foregoing sentence: (i) no automobile or other vehicle shall be parked at any location within the Project which impairs or tends to impair vehicular or pedestrian access within the Project or to and from its various parts; (ii) no garments, rugs, or other household items, or wash lines of any kind may be hung, erected, or maintained outside of an Owner's Unit; (iii) no Owner shall discard or permit any items to fall from the windows of his Unit; (iv) no dogs are permitted on common areas unless the dog is on a leash; and (v) each pet owner must immediately remove any animal droppings and dispose of them in a garbage container.

10.3. No signs, flags or advertising devices of any nature, including, without limitation, informational or directional signs or devices or campaign or political signs, shall be erected or maintained on any part of the Project, without the prior inspection and written approval of the Board, except as may be necessary temporarily to caution or warn of danger. If the Board consents to the erection of any such signs or devices, the same shall be removed promptly at the request of the Board.

10.4. Except for trained assistance animals for the disabled or for similar purposes, no animals, birds, fish or pets of any kind shall be kept, raised or bred on any portion of the Project, without the prior written approval of the Board.

10.5. No Unit, or portions thereof, may be further divided or subdivided, sold or conveyed so as to be held in divided ownership (as opposed to community property, tenancy in common, or other form of joint undivided ownership).

10.6. Except as otherwise permitted by this Declaration, no Owner shall, without the prior written consent of the Board, make or permit to be made any alteration, improvement or addition in or to any Unit. No Owner shall, without the prior written consent of the Board, do any act that would impair the structural soundness or integrity of the Buildings or the safety of property, impair any easement or hereditament appurtenant to the Project, or make or permit to be made any alteration, improvement or addition to the Common Areas and Facilities, notwithstanding Section 8.3 hereof.

10.7. There shall be no obstruction of the Common Areas and Facilities by any Owner. Owners shall neither store nor leave any of their property in the Common Areas and Facilities; other than Limited Common Areas and Facilities appurtenant to their Unit, except with the prior consent of the Board.

10.8. Nothing shall be done or kept in any Unit or in the Common Areas and Facilities or any part thereof which would result in cancellation of the insurance on the Project or any part thereof, nor shall anything be done or kept in any Unit which would increase the rate of insurance on the Project or any part thereof over what the Association, but for such activity, would pay, without the prior written consent of the Board. Nothing shall be done or kept in any Unit or in the Common Areas and Facilities or any part thereof which would be in violation of any statute or rule, ordinance, regulation, permit or other validly imposed requirement of any governmental body. No damage to, or waste of, the Common Areas and Facilities or any part thereof shall be committed by any Owner or guest, lessee, licensee or invitee of any Owner, and each Owner shall indemnify and hold the Association and the other Owners harmless against all

loss resulting from any such damage or waste caused by him or his guests, lessees, licensees or invitees.

10.9. Each Owner shall comply strictly with all reasonable rules and regulations adopted by the Association for the governance of the Units, the Common Areas and the Project, as such rules and regulations may be modified, amended and construed by the Association in the sole discretion of its Board.

10.10. Any Lease agreement between an Owner and a lessee respecting a Unit shall be subject in all respects to the provisions of this Declaration, the Articles and Bylaws and any failure by the lessee to comply with the terms of such documents shall be a default under the Lease. All such Lease agreements shall be in writing and a copy of the Lease shall be filed with the Association. Other than the foregoing, there is no restriction on the right of any Owner to lease his Unit. An Owner shall be responsible and liable for any damage to the Project caused by its tenant.

11. ASSOCIATION AND BOARD OF DIRECTORS.

11.1. Each Owner shall be entitled and required to be a member of the Association. There shall be two (2) classes of membership in the Association, as set forth in Section 20 herein. Membership will begin immediately and automatically upon becoming an Owner and shall terminate immediately and automatically upon ceasing to be an Owner. If title to a Unit is held by more than one person, the membership appurtenant to that Unit shall be shared by all such persons in the same proportionate interest and by the same type of tenancy in which title to the Unit is held. An Owner shall be entitled to one membership for each Unit owned by him. Each membership shall be appurtenant to the Unit to which it relates and shall be transferred automatically by conveyance of that Unit. Ownership of a Unit within the Project cannot be separated from the Association membership appurtenant thereto, and any devise, encumbrance, conveyance or other disposition of a Unit shall constitute a devise, encumbrance, conveyance or other disposition, respectively, of such Owner's membership in the Association and the rights appurtenant thereto. No person or entity other than an Owner may be a member of the Association, and membership in the Association may not be transferred except in connection with the transfer of a Unit.

11.2. The Association shall be governed by the following provisions:

11.2.1. The management and maintenance of the Project and the administration of the affairs of the Association shall be conducted by a Board of Directors consisting of at least three (3) natural persons as provided in the Bylaws. The Board shall be elected as provided in this Declaration and in the Bylaws.

11.2.2. Except as otherwise provided herein, the Board shall have all the powers, duties and responsibilities as are now or may hereafter be provided by the Act, this Declaration and the Bylaws, including but not limited to the following:

11.2.2.1. To make and enforce all rules and regulations covering the operation and maintenance of the Project and the Units.

11.2.2.2. To carry out through a Manager those of its functions which are properly the subject of delegation. The Manager so engaged shall be an independent contractor and not an agent or employee of the Association or Board, shall be responsible for managing the Project for the benefit of the Association and the Owners, and shall, to the extent permitted by law and by the terms of the agreement with the Board, be authorized to perform any of the functions or acts required or permitted to be performed by the Board itself.

11.2.2.3. To engage the services of accountants, attorneys or other employees or agents and to pay to said persons a reasonable compensation therefore, and to appoint committees as determined by the Board.

11.2.2.4. To operate, maintain, repair, improve and replace the Common Areas and Facilities.

11.2.2.5. To determine and pay the Common Expenses.

11.2.2.6. To assess and collect the proportionate share of Common Expenses from the Owners, as provided in Section 19 hereinafter.

11.2.2.7. To enter into contracts, deeds, leases and/or other written instruments or documents and to authorize the execution and delivery thereof by the appropriate officers.

11.2.2.8. To open bank accounts on behalf of the Association and to designate the signatories therefor.

11.2.2.9. To purchase, hold, sell, convey, mortgage or lease any one or more Units in the name of the Association or its designee.

11.2.2.10. To bring, prosecute and settle litigation for itself, the Association and the Project, provided that it shall make no settlement which results in a liability against the Board, the Association or the Project in excess of \$10,000 (as measured in 2007 dollars and thereafter adjusted by the Cost of Living Index) without the prior approval of a majority of the Total Votes of the Association at a meeting or by written ballot distributed to Owners by mail; provided, any settlement which would be paid from proceeds of insurance which may be settled by the Association's insurance carrier and which in either case results in no actual liability of funds of the Association in excess of \$10,000 shall not require Association approval.

11.2.2.11. To obtain insurance for the Association with respect to the Units and the Common Areas and Facilities, as well as worker's compensation insurance, as needed.

11.2.2.12. To repair or restore the Project following damage or destruction or a permanent taking by the power of, or power in the nature of,

eminent domain, or by an action or deed in lieu of condemnation not resulting in the removal of the Project from the provisions of the Act.

11.2.2.13. To own, purchase or lease, hold and sell or otherwise dispose of, on behalf of the Owners, items of personal property necessary to or convenient to the management of the business and affairs of the Association and the Board and to the operation of the Project, including without limitation furniture, furnishings, fixtures, maintenance equipment, appliances and office supplies.

11.2.2.14. To keep adequate books and records and implement the policies and procedures for the inspection of the books and records of the Project by Owners in accordance with the terms of the Bylaws. The Association or the Board shall make available to the Owners, Mortgagees and the holders, insurers and guarantors of the First Mortgage on any Unit current copies of the Declaration, Articles, Bylaws and other rules governing the Project and other books, records and financial statements of the Association. "Available" shall mean available for inspection, upon request, during normal business hours or under other reasonable circumstances.

11.2.2.15. To do all other acts necessary for the operation and maintenance of the Project, including the maintenance and repair of any Unit if the same is necessary to protect or preserve the Project.

11.2.2.16. To prepare, adopt, amend and disseminate budgets and other information from time to time in accordance with the terms of the Bylaws.

11.2.2.17. To grant conveyances, easements and rights-of-way over the Common Areas and Facilities.

11.2.2.18. Members of the Board, the officers and any assistant officers, agents and employees of the Association (i) shall not be liable to the Owners as a result of their activities as such for any mistake of judgment, negligence or otherwise, except for their own willful misconduct or bad faith; (ii) shall have no personal liability in contract to an Owner or any other person or entity under any agreement, instrument or transaction entered into by them on behalf of the Association in their capacity as such; (iii) shall have no personal liability in tort to any Owner or any person or entity, direct or imputed, by virtue of acts performed by them, except for their own willful misconduct or bad faith, nor for acts performed for them in their capacity as such; and (iv) shall have no personal liability arising out of the use, misuse or condition of the Project, which might in any way be assessed against or imputed to them as a result or by virtue of their capacity as such.

11.2.2.19. When a member of the Board is sued for liability for actions undertaken in his role as a member of the Board, the Association shall indemnify him for his losses or claims, and undertake all costs of defense, until and unless it is proven that he acted with willful or wanton misfeasance or with gross

negligence. After such proof the Association is no longer liable for the cost of defense, and may recover costs already expended from the member of the Board who so acted. Members of the Board are not personally liable to the victims of crimes occurring at the Project. Punitive damages may not be recovered against the Association, but may be recovered from persons whose gross negligence gave rise to the damages.

11.2.2.20. To sign and deliver the deed transferring title to the Option Property to Old Towne Square, LLC, and otherwise perform all obligations under the Option Agreement, as explained in Section 6.3 above.

11.2.3. Neither the Board nor the Manager, if any, shall sell any Property of the Association except as permitted by the Act and this Declaration.

12. MAINTENANCE, ALTERATION AND IMPROVEMENT.

12.1. The Board, acting on behalf of the Association and, subject to the rights and duties of the Owners as set forth in this Declaration, shall be responsible for the exclusive management and control of the Common Areas and Facilities and all improvements thereon and shall keep the same in a good, clean, attractive, safe and sanitary condition, order and repair; provided, however, that unless otherwise stated herein, each Owner shall keep the Limited Common Areas designated for use in connection with his Unit in a clean, sanitary and attractive condition. The Board shall be responsible for the maintenance and repair of the exterior of the Buildings, other improvements and grounds, including, without limitation, painting thereof, repair and replacement of exterior trim, siding, railings, roofs and fences, cleaning, repair and maintenance of the swimming pool and related equipment and facilities, and the maintenance of all landscaping, fire and landscaping sprinkling systems, walkways and driveways. The Board shall also be responsible for maintenance, repair and replacement of Common Areas and Facilities within the Buildings and within the Project. The costs associated with the maintenance, replacement and repair of the Common Areas and Facilities shall be a Common Expense.

12.2. Some of the Common Areas and Facilities are or may be located within the Units or may be conveniently accessible only through the Units. The Association shall have the irrevocable right to have access to each Unit and to all Common Areas and Facilities from time to time during such reasonable hours as may be necessary for the cleaning, repair or replacement of any Common Areas and Facilities or for making any emergency repairs at any time and when necessary to prevent damage to the Common Areas and Facilities or to any Unit. The Association shall also have the irrevocable right to have access to any Unit when necessary in connection with any cleaning, maintenance, repair, replacement, painting, landscaping, construction or reconstruction for which the Association is responsible or for the purpose of abating a nuisance or a known or suspected dangerous or unlawful condition. Such entry shall be made with as little inconvenience to the Owners as is practicable under the circumstances and any damage caused thereby shall be repaired by the Association.

12.3. Additions or Capital Improvements to the Project which cost no more than \$10,000 may be authorized by the Board alone. Additions or Capital Improvements the cost of

which exceeds \$10,000 must, prior to being constructed, be authorized by at least a majority of the undivided ownership in the Project. Any additional or Capital Improvements which would materially alter the nature of the Project must, regardless of its cost and prior to being constructed, be authorized by at least seventy-five percent (75%) of the Project's undivided ownership interest. For purposes of this Section 12.3, "materially alter the nature of the Project" shall mean any addition or Capital Improvement that changes the project from residential to any other use, such as commercial or any form of timesharing.

12.4. No Owner shall enlarge or otherwise modify the exterior of his/her Unit or Limited Common Area or add any devices or structures such as, for illustration and not limitation, fences, greenhouses, solariums, room additions, enclosing decks, hot tubs, unless and until the Owner has received written consent from the Board. The Board may function by itself or may appoint a committee to be charged with the responsibility of keeping the Project's exterior and common areas consistent in appearance.

In the event the Board grants the Owner the right to convert common area into Limited Common Area or modify Limited Common Area into Common Area, the entire cost of any such improvement or modification shall be borne by the Owner. Ownership interests in the Common Areas shall also be amended to reflect the additional private ownership of the Owner, increasing the Owner's interest and concurrently reducing the Ownership interests of the other Owners. The Owners need not consent to such an amendment. Moreover, the Owner shall pay all expenses associated with the preparation, execution and recordation of any amendments reflecting such conversion.

Should any such improvement or modification affect the cost of the Association's utility insurance, painting, staining or other expense, such expense affected shall be added to the affecting Owner's monthly assessment. Further, any such additional expense affected thereby and applicable to non-yearly periodic maintenance projects such as for illustration, but not limited to, roofing, staining or painting shall also be added to any special assessment of the Owner.

13. INSURANCE.

13.1. The Association shall at all times maintain in force insurance meeting the following requirements:

13.1.1. A "master" or "blanket" type policy of property insurance shall be maintained covering the entire Project, including: Common Areas and Facilities; all Buildings including all Units (other than the interior contents thereof); fixtures, building service equipment, personal property and supplies comprising a part of the Common Areas or Facilities or owned by the Association, but excluding land, foundations, excavations, and other items normally not covered by such policies. References herein to a "master" or "blanket" type policy of property insurance are intended to denote single entity insurance coverage. As a minimum, such "master" or "blanket" policy shall afford protection against loss or damage by fire, by other perils normally covered by the standard extended coverage endorsement, and by all other perils which are customarily covered with respect to projects similar to the Project in construction, location, and use,

including (without limitation) all perils normally covered by the standard "all risk" endorsement, where such endorsement is available. Such "master" or "blanket" policy shall be in an amount not less than one hundred percent (100%) of current replacement cost of all elements of the Project covered by such policy, exclusive of land, foundations, excavation, and other items normally excluded from coverage. If the Board deems such advisable, the insurance policy shall include either of the following endorsements to assure full insurable value replacement cost coverage: (1) a Guaranteed Replacement Cost Endorsement (under which the insurer agrees to replace the insurable property regardless of the cost) and, if the policy includes a co-insurance clause, an Agreed Amount Endorsement (which waives the requirement for co-insurance); or (2) a Replacement Cost Endorsement (under which the insurer agrees to pay up to one-hundred percent of the property's insurable replacement cost but no more) and, if the policy includes a co-insurance clause, an Agreed Amount Endorsement (which waives the requirement for co-insurance). Unless the Board otherwise determines, the maximum deductible amount for such a policy covering the Common Areas and Facilities shall be Ten Thousand Dollars (\$10,000) and for losses related to individual Units that are covered by such a policy, the deductible related to each individual Unit shall be Ten Thousand Dollars (\$10,000.00). Funds to cover these deductible amounts shall be included in the Association's operating reserve account.

13.1.2. If any habitable structure located within the Project is or comes to be situated in a Special Flood Hazard Area as designated on a Flood Insurance Rate Plat, a "master" or "blanket" policy of flood insurance shall be maintained covering the Buildings (a separate policy is required for each separate multi-story building that houses Units), any machinery and equipment that are not part of a Building and all Common Areas and Facilities within the Project (hereinafter "Insurable Property") in an amount deemed appropriate, but not less than the lesser of: (1) the maximum limit of coverage available under the National Flood Insurance Administration Program for all Buildings and Insurable Property within any portion of the Project located within a designated flood hazard area; or (2) one hundred percent (100%) of the insurable value of all such facilities. The maximum deductible amount for any such policy shall be the lesser of Five Thousand Dollars (\$5,000.00) or one percent (1%) of the policy face amount.

13.1.3. The name of the insured under each policy required to be maintained by the foregoing Sections 13.1.1 and 13.1.2 shall be the Association for the use and benefit of the individual Owners. (Said Owners shall be designated by name, if required.) Notwithstanding the requirement of the two immediately foregoing sentences, each such policy may be issued in the name of an authorized representative of the Association, including any Insurance Trustee with whom the Association has entered into an Insurance Trust Agreement, or any successor to such Trustee, for the use and benefit of the individual Owners. Loss payable shall be in favor of the Association (or Insurance Trustee), as a trustee for each Owner and each such Owner's Mortgagee. Each Owner and each such Owner's Mortgagee, if any, shall be beneficiaries of such policy. Evidence of insurance shall be issued to each Owner and Mortgagee upon request.

13.1.4. Each policy required to be maintained by the foregoing Sections 13.1.1 and 13.1.2 shall contain the standard mortgage clause, or equivalent endorsement

(without contribution), commonly accepted by private institutional mortgage investors in the area in which the Project is located. In addition, such mortgage clause or another appropriate provision of each such policy shall provide that the policy may not be canceled or substantially modified without at least ten (10) days' prior written notice to the Association and to each Mortgagee which is listed as a scheduled holder of a Mortgage in the policy.

13.1.5. Each policy required to be maintained by the foregoing Sections 13.1.1 and 13.1.2 shall provide, if available, for the following: recognition of any insurance trust agreement; a waiver of the right of subrogation against Owners individually; the insurance is not prejudiced by any act or neglect of individual Owners which is not in the control of such Owners collectively or the Association; and the policy is primary in the event the Owner has other insurance covering the same loss.

13.1.6. In contracting for the policies of insurance required to be maintained by the foregoing Section 13.1, the Board shall make reasonable efforts to secure, if the Board deems such advisable, coverage which provides the following endorsements: (1) "Inflation Guard Endorsement" (2) "Building Ordinance or Law Endorsement", if the enforcement of any building, zoning, or land use law will result in loss or damage, increased cost of repairs or reconstruction, or additional demolition and removal costs. (The endorsement must provide for contingent liability from the operation of building laws, demolition costs, and increased costs of reconstruction); and (3) "Steam Boiler and Machinery Coverage Endorsement", if the Project has central heating or cooling, which shall provide that the insurer's minimum liability per accident at least equals the lesser of Two Million Dollars (\$2,000,000.00) or the insurable value of the Building containing the boiler or machinery. In lieu of obtaining this as an endorsement to the commercial package property, the Association may purchase separate stand-alone boiler and machinery coverage.

13.1.7. The Association shall at all times maintain in force and pay the premiums for "blanket" fidelity bonds for all officers, members, and employees of the Association and for all other persons handling or responsible for funds of or administered by the Association whether or not that individual receives compensation for services. Furthermore, where the Association has delegated some or all of the responsibility for the handling of funds to the Manager, the Manager shall provide "blanket" fidelity bonds, with coverage identical to such bonds required of the Association, for the Manager's officers, employees and agents handling or responsible for funds of, or administered on behalf of, the Association. The total amount of fidelity bond coverage required shall be based upon the Association's best business judgment and shall not be less than the estimated maximum of funds, including reserve funds, in the custody of the Association, or the Manager, as the case may be, at any given time during the term of each bond. The bonds required shall meet the following additional requirements: (1) the fidelity bonds shall name the Association as obligee; (2) the bonds shall contain waivers by the issuers of the bonds of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees", or similar terms or expressions; (3) the premiums on all bonds required herein for the Association (except for premiums on fidelity bonds maintained by the Manager for its officers, employees and agents) shall be

paid by the Association as part of the Common Expenses; and (4) the bonds shall provide that they may not be canceled or substantially modified (including cancellation for nonpayment of premium) without at least ten (10) days' prior written notice to the Association.

13.1.8. The Association shall maintain in force, and pay the premium for a policy providing commercial general liability insurance coverage covering all of the Common Areas and Facilities, Building exteriors, public ways in the Project, all other areas of the Project that are under the Association's supervision, and any commercial spaces owned by the Association, if any, whether or not such spaces are leased to some third party. The coverage limits under such policy shall be in amounts generally required by private institutional mortgage investors for projects similar to the Project in construction, location, and use. Nevertheless, such coverage shall be for at least Two Million Dollars (\$2,000,000) for bodily injury, including deaths of persons, and property damage arising out of a single occurrence. Coverage under such policy shall include, without limitation, legal liability of the insureds for property damage, bodily injuries and deaths of persons in connection with the operation, maintenance, or use of the Common Areas and Facilities, Building exteriors, and legal liability arising out of lawsuits related to employment contracts of the Association. Additional coverages under such policy shall include protection against such other risks as are customarily covered with respect to projects similar to the Project in construction, location, and use, including but not limited to (where economically feasible and if available), host liquor liability, contractual and all-written contract insurance, employers liability insurance, and comprehensive automobile liability insurance. If such policy does not include "severability of interest" in its terms, the policy shall include a special endorsement to preclude an insurer's denial of any Owner's claim because of negligent acts of the Association or any other Owner. Such policy shall provide that it may not be canceled or substantially modified, by any party, without at least ten (10) days' prior written notice to the Association and to each First Mortgagee which is listed as a scheduled holder of a Mortgage in such policy.

13.1.9. Notwithstanding any of the foregoing provisions and requirements relating to property or liability insurance, there may be named as an insured on behalf of the Association, the Association's authorized representative, including any trustee with whom the Association may enter into any Insurance Trust Agreement or any successor to such trustee (each of whom shall be referred to herein as the "Insurance Trustee"), who shall have exclusive authority to negotiate losses under any policy providing such property or liability insurance. Each Owner hereby appoints the Association, or any Insurance Trustee or substitute Insurance Trustee designated by the Association, as his or her attorney-in-fact for the purpose of purchasing and maintaining such insurance, including: the collection and appropriate disposition of the proceeds thereof; the negotiation of losses and execution of releases of liability; the execution of all documents; and the performance of all other acts necessary to accomplish such purpose. The Association, or any Insurance Trustee, shall receive, hold, or otherwise properly dispose of any proceeds of insurance in trust for the use and benefit of the Owners and their Mortgagees, as their interests may appear.

Each insurance policy maintained pursuant to the foregoing Sections 13.1.1, 13.1.2, 13.1.7, and 13.1.8 shall be written by an insurance carrier which is licensed to transact business in the State of Utah and which has a B general policyholder's rating or a financial performance index of 6 or better in the Best's Key Rating Guide or an A or better rating from Demotech, Inc., or which is written by Lloyd's of London. No such policy shall be maintained where: (1) under the terms of the carrier's charter, bylaws, or policy, contributions may be required from, or assessments may be made against, an Owner, a Mortgagee, the Board, or the Association; (2) by the terms of the carrier's charter, bylaws, or policy, loss payments are contingent upon action by the carrier's board of directors, policyholders, or members; or (3) the policy includes any limiting clauses (other than insurance conditions) which could prevent the party entitled (including, without limitation, the Board, the Association, or Owner) from collecting insurance proceeds. The provisions of this Section 13.1.9 and of the foregoing Sections 13.1.1, 13.1.2, 13.1.7, and 13.1.8 shall not be construed to limit the power or authority of the Association to obtain and maintain insurance coverage, in addition to any insurance coverage required hereunder, in such amounts and in such forms as the Association may deem appropriate from time to time.

13.1.10. All insurance policies shall be reviewed at least annually by the Board in order to ascertain whether the coverage contained in the policies is sufficient to make any necessary repairs or replacement of the Project which may have been damaged or destroyed. In addition, such policies shall be reviewed to determine their compliance with the provisions of this Declaration.

14. DESTRUCTION OR DAMAGE.

14.1. All of the Owners irrevocably constitute and appoint the Association as their true and lawful attorney-in-fact in their name, place and stead for the purpose of dealing with the Project upon its damage or destruction as hereinafter provided. Acceptance by any grantee of a deed from any Owner shall constitute an appointment by said grantee of the Association as his or her attorney-in-fact as herein provided. As attorney-in-fact, the Association shall have full and complete authorization, right and power to make, execute and deliver any contract, deed or other instrument with respect to the interest of an Owner which may be necessary or appropriate to exercise the powers herein granted. All insurance proceeds shall be payable to the Association except as otherwise provided in this Declaration.

14.2. Repair and reconstruction of the improvements as used herein means restoring the Project to substantially the same condition in which it existed prior to the damage or destruction, with each Unit and the Common Areas and Facilities having substantially the same vertical and horizontal boundaries as before.

14.3. In the event all or any part of the Project is damaged or destroyed, the Association shall proceed as follows:

14.3.1. The Association shall give timely written notice to any holder of any First Mortgage on a Unit who requests such notice in writing in the event of substantial

damage to or destruction of any part of the Common Areas or Facilities or a Unit subject to such First Mortgage.

14.3.2. As soon as practicable after an event causing damage to or destruction of any part of the Project, the Association shall obtain complete and reliable estimates of the costs to repair and reconstruct the part of the Project damaged or destroyed.

14.3.3. If the proceeds of the insurance maintained by the Association equal or exceed the estimated costs to repair and reconstruct the damaged or destroyed part of the Project, such repair and reconstruction shall be carried out.

14.3.4. If the proceeds of the insurance maintained by the Association are less than the estimated costs to repair and reconstruct the damaged or destroyed part of the Project and if less than seventy-five percent (75%) of the Project is damaged or destroyed, such repair and reconstruction shall nevertheless be carried out. The Association shall levy a Special Common Assessment sufficient to provide funds to pay the actual costs of such repair and reconstruction to the extent that such insurance proceeds are insufficient to pay such costs. Such Special Common Assessment shall be allocated and collected as provided in Section 19.1.3 hereof, except that the vote therein specified shall be unnecessary. Further levies may be made in like manner if the amounts collected (together with the proceeds of insurance) are insufficient to pay all actual costs of such repair and reconstruction.

14.3.5. If the proceeds of the insurance maintained by the Association are less than the estimated costs to repair and reconstruct the damaged or destroyed part of the Project and if seventy-five percent (75%) or more of the Project is damaged or destroyed, such damage or destruction shall be repaired and reconstructed, but only if within one hundred (100) days following the damage or destruction, Owners entitled to vote at least seventy-five percent (75%) of the votes of the Total Votes of the Association vote to carry out such repair and reconstruction. If, however, the Owners do not, within one hundred (100) days after such damage or destruction, elect by a vote of at least seventy-five percent (75%) of the votes of the Total Votes of the Association to carry out such repair and reconstruction, the Association shall record in the office of the County Recorder of Utah County, State of Utah, a notice setting forth such facts. Upon the recording of such notice, the following shall occur:

14.3.5.1. The Project shall be subject to an action for partition at the suit of any Owner, in which event the net proceeds of any sale resulting from such suit for partition, together with the net proceeds of the insurance of the Project, if any, shall be considered as one fund and shall be divided among all Owners in an amount equal to the pro-rata interests of the Owners in the Project.

14.3.5.2. In no event shall an Owner of a Unit or any other party have priority over the holder of any First Mortgage on such Unit with respect to the distribution to such Unit of any insurance proceeds.

14.4. If the damage or destruction is to be repaired or reconstructed as provided above, the Association shall, as soon as practicable after receiving the said estimate of costs, commence and diligently pursue to completion the repair and reconstruction of that part of the Project damaged or destroyed. The Association may take all necessary or appropriate action to effect the repair and reconstruction, as attorney in fact for the Owners, and no consent or other action by any Owner shall be necessary in connection therewith, except as otherwise expressly provided herein. The Project shall be restored or repaired to substantially the same condition in which it existed prior to the damage or destruction, with each Unit and the Common Areas and Facilities having the same vertical and horizontal boundaries as before. Any restoration or repair of the Project, after a partial condemnation or damage due to an insurable hazard, shall be performed substantially in accordance with the Declaration and the original architectural plans and specifications.

14.5. If repair or reconstruction is to occur, the insurance proceeds held by the Association and any amounts received from Common Assessments shall constitute a fund for the payment of costs of repair and reconstruction after casualty. It shall be deemed that the first money disbursed in payment for costs of repair and reconstruction shall be made from insurance proceeds; if there is a balance after payment of all costs of such repair and reconstruction, such balance shall be distributed to the Owners equally.

14.6. This Section 14 shall not be amended unless Owners entitled to vote at least seventy-five percent (75%) of the Total Votes of the Association consent and agree to such amendment and such consent and agreement is reflected in an instrument duly executed by the Association and recorded in accordance with the provisions of this Declaration.

15. TERMINATION.

15.1. Except as otherwise provided in this Declaration, including but not limited to Section 14 hereof, the Project may be terminated only by agreement of Owners entitled to vote at least eighty-five percent (85%) of the Total Votes of the Association at a meeting of Owners duly called for such purpose at which a quorum is present.

15.2. All of the Owners may remove the Project from the provisions of the Act by an instrument duly recorded to that effect, provided that the holders of all liens affecting any of the Units consent or agree by instruments duly recorded that their liens are transferred to the fractional ownership interest of the Owners in the Project.

15.3. A termination agreement may provide that all of the Project shall be sold following termination. If, pursuant to the agreement, any real estate in the Project is to be sold following termination, the termination agreement shall set forth the minimum terms of the sale.

15.4. The Association, on behalf of the Owners, may contract for the sale of real estate in the Project, but the contract is not binding on the Owners until approved pursuant to Sections 15.1 and 15.2. If any real estate in the Project is to be sold following termination, title to that real estate on termination vests in the Association as trustee for all Owners. Thereafter, the Association has all powers necessary and appropriate to affect the sale. Until the sale has been concluded and the proceeds of the sale distributed, the Association continues in existence with

all powers it had before termination. Proceeds of the sale shall be distributed to Owners and Mortgagees as their interests may appear, based on the relative value of each Unit. Unless otherwise specified in the termination agreement, as long as the Association holds title to the real estate, each Owner and their successors in interest have an exclusive right to occupancy of the portion of the real estate that formerly constituted their Unit in accordance with the terms of this Declaration. During the period of that occupancy right, each Owner and their successors in interest remain liable for all assessments and other obligations imposed on Owners by this Declaration.

15.5. Following termination of the Project, the proceeds of any sale of real estate, together with the assets of the Association, shall be held by the Association as trustee for Owners and Mortgagees as their interests may appear. Following termination, Mortgagees holding Mortgages on the Units which were recorded before termination may enforce those liens in the same manner as any lien holder.

16. EMINENT DOMAIN.

16.1. Whenever any proceeding is instituted that could result in the temporary or permanent taking, injury or destruction of all or part of the Common Areas and Facilities or one or more Units or portions thereof by the exercise of the power of or power in the nature of eminent domain or by an action or deed in lieu of condemnation, the Board and each Owner shall be entitled to notice thereof and the Board shall, and the Owners at their respective expense may, participate in the proceedings incident thereto.

16.2. With respect to the Common or Limited Common Areas and Facilities, any damages or awards shall be determined for such taking, injury or destruction as a whole and not for each Owner's interest therein. After such determination, each Owner shall be entitled to a share in the damages in the same proportion as his ownership interest in the Common Areas and Facilities. This provision does not prohibit a majority of the Owners from authorizing the Board to use such damages or awards for replacing or restoring the Common Areas and Facilities so taken on the remaining land or on other acquired land, provided that this Declaration and the Plat are duly amended.

16.3. With respect to one or more Units or portions thereof, the damages or awards for such taking shall be deemed to be proceeds from insurance on account of damage or destruction pursuant to Section 14 above and shall be deposited with the Board as trustee. Even though the damages or awards may be payable to one or more Owners, the Owners shall deposit the damages or awards with the Board as trustee. In the event an Owner refuses to so deposit his award with the Board, then at the option of the Board, either a Special Common Assessment shall be made against the defaulting Owner and his Unit in the amount of this award or the amount of such award shall be set off against the sum hereafter made payable to such Owner.

16.4. If one or more Units are taken, in whole or in part, and the Project is not removed from the provisions of the Act, the taking shall have the following effects:

16.4.1. If the taking reduces the size of a Unit and the remaining portion of the Unit may be made tenantable, the Unit shall be made tenantable. If the cost of such work

exceeds the amount of the award, the additional funds required shall be assessed against the Owners of the Unit. The balance of the award, if any, shall be distributed to the Mortgagee to the extent of the unpaid balance of its Mortgage and the excess, if any, shall be distributed to the Owner.

16.4.2. If the taking destroys or so reduces the size of a Unit that it cannot be made tenantable, the award shall be distributed to the Mortgagee of the Unit to the extent of the unpaid balance of its Mortgage and the excess, if any, shall be distributed to the Owners thereof. The remaining portion of such Unit, if any, shall become a part of the Common Areas and Facilities and shall be placed in condition for use by all Owners in the manner approved by the Board. The ownership interest in the Common Areas and Facilities appurtenant to the Units that continue as part of the Project shall be equitably adjusted to distribute the ownership of the Common Areas and Facilities among the reduced number of Owners.

16.5. Changes in Units, in the Common Areas and Facilities and in the ownership of the Common Areas and Facilities that are affected by the taking referred to in this Section 16 shall be evidenced by an Amendment to this Declaration and the Plat, which need not be approved by the Owners.

17. MORTGAGEE PROTECTION.

17.1. The Association shall maintain and have current copies of the Declaration, Articles, Bylaws, and other rules concerning the Project as well as its own books, records, and financial statements available for inspection by Owners or by holders, insurers, and guarantors of First Mortgages that are secured by Units in the Project. Generally, these documents shall be available during normal business hours.

17.2. The lien or claim against a Unit for unpaid assessments or charges levied by the Association pursuant to this Declaration shall be subordinate to the First Mortgage affecting such Unit if the First Mortgage was recorded before the delinquent assessment was due, and the First Mortgagee thereunder which comes into possession of or which obtains title to the Unit shall take the same free of such lien or claim for unpaid assessment or charges, but only to the extent of assessments or charges which accrue prior to foreclosure of the First Mortgage, exercise of a power of sale available thereunder, or taking of a deed or assignment in lieu of foreclosure. No assessment, charge, lien, or claim which is described in the preceding sentence as being subordinate to a First Mortgage or as not to burden a First Mortgagee which comes into possession or which obtains title shall be collected or enforced by the Association from or against a First Mortgagee, a successor in title to a First Mortgagee, or the Unit affected or previously affected by the First Mortgage concerned.

17.3. In the event any taxes or other charges which may or have become a lien on the Common Areas and Facilities are not timely paid, or in the event the required hazard insurance described in 13.1.1 lapses, is not maintained, or the premiums therefore are not paid when due, any Mortgagee or any combination of Mortgagees may jointly or singly, pay such taxes or premiums or secure such insurance. Any Mortgagee which expends funds for any of such purposes shall be entitled to immediate reimbursement therefor from the Association.

17.4. No provision of this Declaration or the Articles gives or may give an Owner or any other party priority over any rights of Mortgagees pursuant to their respective Mortgages in the case of a distribution to Owners of insurance proceeds or condemnation awards for loss to or taking of all or any part of the Units or the Common Areas and Facilities.

18. AMENDMENT.

18.1. Except as provided elsewhere in this Declaration, any amendment to this Declaration shall require the affirmative vote of at least sixty-seven percent (67%) of the Total Votes of the Association cast in person or by proxy at a meeting duly called for such purpose or otherwise approved in writing by such Owners. Any amendment authorized pursuant to this Section shall be accomplished through the recordation in the office of the Utah County Recorder of an instrument executed by the Association. In such instrument an officer or a member of the Board of the Association shall certify that the vote required by this Section for amendment has occurred. Declarant shall have the right to amend this Declaration to expand the Project to include the Additional Land, or any portion thereof, from time to time, without a vote or consent of the Owners or the Association. Declarant may also amend the Plat in connection with any such expansion of the Project without a vote or consent of the Owners or the Association.

19. ASSESSMENT OF UNITS BY THE ASSOCIATION.

19.1. The making and collection of Common Assessments by the Association from Owners of Units for their share of Common Expenses shall be pursuant to the Bylaws and subject to the following provisions:

19.1.1. Declarant, for each Unit owned by Declarant which is not an Exempt Unit, and each Owner, other than Declarant, by becoming an Owner of a Unit is deemed to covenant and agree to pay Assessments to the Association in accordance with this Declaration. Each Unit in the Project shall be liable for an equal share of the Common Expenses of the Association. Two separate and distinct funds shall be created and maintained hereunder, one for operating expenses and one for capital reserve expenses. Such combined expenses shall constitute the Common Expenses, and the funds received from Common Assessments under this Article 19 shall be the Common Expense Account. Common Assessments shall include both Regular Common Assessments and Special Common Assessments. Regular Common Assessments must be made at least annually, based on a budget adopted at least annually by the Association in accordance with the provisions of this Declaration and the Bylaws. Regular Common Assessments shall be levied against each separate Unit annually.

19.1.2. The Association may not impose a Regular Common Assessment per Unit which is more than 20% greater than the previous year's Regular Common Assessment, without first obtaining the vote of Owners, constituting a quorum, casting a majority of the Total Votes of the Association at a meeting of the Association. Such percentage increase shall be calculated without regard to any increase attributable to an increase in real estate taxes against the Units. The Association shall provide notice, by first class mail to all Owners, of any increase in the Regular Common Assessments not

less than fifteen (15) nor more than sixty (60) days prior to the date the increased Regular Common Assessment is due.

19.1.3. In addition to the Regular Common Assessments, the Association may levy in any calendar year, Special Common Assessments applicable to that year only. However, in any fiscal year, except as otherwise provided in this Declaration, the Board shall not, without the vote or written assent of Owners, casting a majority of the Total Votes of the Association at a meeting or by written ballot, levy Special Common Assessments which in the aggregate exceed 10% of the budgeted gross expenses of the Association for that fiscal year. All Units within the Project, except Exempt Units, shall pay an equal portion of any Special Common Assessment. These provisions with respect to the imposition or allocation of Special Common Assessments shall not apply when the special assessment is to pay an increase in real property taxes or when the special assessment against an Owner is a remedy utilized by the Board to reimburse the Association for costs incurred in bringing the Owner and/or his Unit into compliance with the provisions of this Declaration, the Bylaws, rules and regulations of the Association, or any other governing instrument for the Project. The Board shall provide notice by first class mail to all Owners of any Special Common Assessments not less than fifteen (15) nor more than sixty (60) days prior to the date such Assessment is due. Special Common Assessments shall be paid as determined by the Board and the Board may permit Special Common Assessments to be paid in installments extending beyond the fiscal year in which the Special Common Assessment is imposed.

19.1.4. All Common Assessments shall be due as determined pursuant to the Bylaws. Common Assessments and any installments thereof not paid on or before ten (10) days after the date when due shall be delinquent and shall bear interest at the rate of eighteen percent (18%) per annum, or at such lower rate of interest as may be set by the Board, from the date when due until paid. In addition, Owners who do not pay their Common Assessments when due shall be subject to a late fee of up to fifty dollars (\$50.00), adjustable from year to year at the discretion of the Board pursuant to the Cost of Living Index. All payments of Common Assessments shall be first applied to accrued interest and late fees, and then to the Common Assessment payment first due. All Common Assessments to pay a judgment against the Association may be made only against the Units in the Project at the time the judgment was entered, in proportion to their liabilities for Common Expenses. If any Common Expense is caused by the misconduct of any Owner, the Association may assess that expense exclusively against such Owner's Unit(s). If the Owners' percentage interests in the Common Areas and Facilities are reallocated, assessments for Common Expenses and any installment thereof not yet due must be recalculated in accordance with the reallocated percentage interests of the Owners.

19.1.5. There shall be a lien upon the applicable Unit for all unpaid Common Assessments, together with late fees, interest and costs (including attorneys' fees) charged pursuant to the Declaration and the Act. The lien for unpaid Common Assessments and related charges shall be effective upon recordation in the Office of the Utah County Recorder of a written notice of lien by the Board or the Manager. The written notice of lien shall set forth the amount of the Common Assessment, the date(s)

due, the amount remaining unpaid, the name of the Owner of the Unit and a description of the Unit. No notice of lien shall be recorded until there is a delinquency in payment of the Common Assessment. Such lien may be enforced by sale or foreclosure conducted in accordance with the provisions of law applicable to the exercise of powers of sale or foreclosure in deeds of trust or mortgages or in any other manner permitted by law including specifically, but without limitation, the method recognized under the laws of the state of Utah for the enforcement of a mechanics lien which has been established in accordance with the provisions of Chapter 1, Title 38, Utah Code Ann., as amended from time to time. In any such foreclosure, the Owner shall be required to pay the costs and expenses of such proceeding (including reasonable attorneys' fees), and such costs and expenses shall be secured by the lien being foreclosed. The Owner shall also be required to pay to the Association any Common Assessments against the Unit which shall become due during the period of foreclosure, and all such Common Assessments shall be secured by the lien being foreclosed. The Board shall have the right and power in behalf of the Association to bid at any foreclosure sale and to hold, lease, mortgage or convey the subject Unit in the name of the Association. In furtherance of such foreclosure rights, the Association may bring an action at law against the Owner personally obligated to pay the same or the Association may foreclose the lien in accordance with the provisions of the Act. The Board may appoint legal counsel or a title insurance company as a trustee for the purpose of exercising the power of sale in connection with non-judicial foreclosures as provided in Title 57, Chapter 1 Utah Code Ann. and made applicable hereto by Title 57, Chapter 8 Utah Code Ann. Provided, however, the Association reserves the right to substitute and appoint a successor trustee as provided for in Title 57, Chapter 1 Utah Code Ann. Each Owner hereby conveys all of its right, title and interest in its Unit to such trustee, in trust, with a power of sale, to secure each Owner's obligations under the Declaration, including but not limited to the obligation to pay all Common Assessments. The Association may, through its duly authorized agents, bid on the Unit at any foreclosure sale and acquire, hold, lease, mortgage and convey the same. The lien of the Association shall be superior (prior) to all other liens and encumbrances except liens and encumbrances recorded before recordation of this Declaration, a First Mortgage on a Unit as provided for in Section 17.2 hereof and assessments, liens and charges in favor of the state or any political subdivision thereof, for taxes and other governmental assessments or charges past due and unpaid on the Unit. The lien procedures described herein do not prohibit actions to recover sums for which the Act creates a lien or prohibit the Association from taking a deed in lieu of foreclosure. The Board, upon written request, shall furnish to an Owner a statement setting forth the amount of unpaid assessments against the Unit. This statement must be furnished within ten (10) business days after receipt of the request and is binding on the Association, the Board, the Common Area Manager and every Owner, in favor of all who rely on such statement in good faith.

19.1.6. The amount of any Common Assessment against any Unit shall be the personal obligation of the Owner of such Unit to the Association. Suit to recover a money judgment for such personal obligation shall be maintainable by the Association without foreclosing or waiving the lien securing the same. No Owner may avoid or diminish any such personal obligation by waiver of the use and enjoyment of any of the Common Areas and Facilities or by abandonment of his Unit or by waiving any services or amenities provided for in this Declaration. In the event of any suit to recover a money

judgment of unpaid assessments hereunder, the involved Owner shall pay the costs and expenses incurred by the Association in connection therewith, including reasonable attorneys' fees.

19.1.7. The personal obligation of an Owner to pay unpaid assessments against his Unit as described in Section 19.1.6 shall not pass to successors in title unless assumed by them; provided, however, that a lien to secure unpaid assessments shall not be impaired, nullified or otherwise affected by the sale or transfer of the Unit unless foreclosure by a First Mortgagee is involved in which case the foreclosure will extinguish the lien for any assessments that were payable before the foreclosure sale, but shall not relieve any subsequent Owner from paying further assessments.

19.1.8. All Exempt Units shall be exempt from the Assessments (including regular common assessments and special assessments). Declarant shall remain a Class B Member in the Association at all times so long as it owns a Unit, notwithstanding its temporary exemption status from the required Assessment payments. On the date on which a Unit loses its status of being an Exempt Unit (as set forth in Section 2.16), then it shall automatically be subject to its share of Assessments from that date forward, and the membership pertaining to such Unit shall become a Class A membership.

19.2. The Board shall not expend funds designated as reserves for any purpose other than the repair, restoration, replacement or maintenance of major components of the Common Areas and Facilities for which the Association is responsible and for which the reserve fund was established or for litigation involving such matters. Nevertheless, the Board may authorize the temporary transfer of money from the reserve account to the Association's operating account from time to time to meet short-term cash flow requirements and pay other expenses. Any such funds so transferred shall constitute a debt of the Association, and shall be restored and returned to the reserve account within three (3) years of the date of the initial transfer; provided, however, the Board may, upon making a documented finding that a delay in the restoration of such funds to the reserve account would be in the best interests of the Project and Association, delay such restoration until the time it reasonably determines to be necessary. The Board shall exercise prudent fiscal management in the timing of restoring any transferred funds to the reserve account and shall, if necessary, levy a Special Common Assessment to recover the full amount of the expended funds within the time limit specified above. Any such Special Common Assessment shall not be subject to the limitations set forth in Section 19.1.3 hereof. At least once every three (3) years the Board shall cause a study to be conducted of the reserve account of the Association and its adequacy to satisfy anticipated future expenditure requirements. The Board shall, thereafter, annually review the reserve account study and shall consider and implement necessary adjustments to reserve account requirements and funding as a result of that review. Any reserve account study shall include, at a minimum:

19.2.1. Identification of the major components which the Association is obligated to repair, replace, restore or maintain which, as of the date of the study, have a useful life of less than 30 years.

19.2.2. Identification of the probable remaining useful life of the components identified in subparagraph 19.2.1 above, as of the date of the study.

19.2.3. An estimate of the cost of repair, replacement, restoration or maintenance of each major component identified in subparagraph 19.2.1 above, during and at the end of its useful life.

19.2.4. An estimate of the total annual contribution necessary to defray the cost to repair, replace, restore or maintain each major component during and at the end of its useful life, after subtracting total reserve funds as of the date of the study.

For the purposes of this Section, the term "reserve account requirements" means the estimated funds which the Board has determined are required to be available at a specified point in time to repair, replace or restore those major components which the Association is obligated to maintain.

19.3. If an Owner shall at any time lease his Unit and shall default in the payment of Common Assessments, the Board may, at its option, so long as such default shall continue, demand and receive from any tenant of the Owner the rent due or becoming due, and the payment of such rent to the Board shall be sufficient payment and discharge of such tenant and the Owner for such assessments to the extent of the amount so paid.

20. VOTING.

The Association shall have two (2) classes of memberships which shall be entitled to the following voting rights:

20.1 Class A. Each Owner of a Unit, which is an Assessable Unit, shall be a Class A Member of the Association and each Owner is allotted one (1) vote per Unit owned. Each Class A Membership shall be held jointly by all Owners of such Unit.

20.2 Class B. Declarant shall be a Class B Member of the Association and shall be entitled to three (3) votes for each Unit held by Declarant as an Owner of a Unit. Declarant shall be entitled to cast three (3) votes for such Units even if the Units are temporarily classified as Exempt Units under Section 2.16 of this Declaration.

At any meeting of the Association, each Owner of a Unit (including Class A and Class B Members of the Association), either in person or by proxy, shall be entitled to vote the number of votes pertaining to their respective Units.

21. EASEMENTS.

21.1. If any part of the Common Areas and Facilities encroaches or shall hereafter encroach upon a Unit or Units, an easement for such encroachment and for the maintenance of the same shall and does exist. If any part of a Unit encroaches or shall hereafter encroach upon the Common Areas and Facilities, or upon an adjoining Unit or Units, an easement for such encroachment and for the maintenance of the same shall and does exist. Such easements shall extend for whatever period the encroachment exists. Such encroachments shall not be considered to be encumbrances either on the Common Areas and Facilities or the Units. Encroachments referred to herein include, but are not limited to, encroachments caused by error in the original construction of any improvement constructed or to be constructed within the

Project, by error in the Plat, by settling, rising or shifting of the earth, or by changes in position caused by repair or reconstruction of the Project or any part thereof.

21.2. Improvements, including Units, Common Areas and Facilities and Limited Common Areas and Facilities, constructed as subsequent phases of the Project may encroach upon portions of the Common Areas and Facilities of earlier phases of the Project. A perpetual easement for such encroachment and the activities necessary to repair, maintain and operate such improvements is hereby granted.

21.3. Each Owner shall have the unrestricted right to ingress and egress over, upon and across the Common Areas and Facilities as necessary for access to the Unit he is occupying and to any Limited Common Areas and Facilities appurtenant to his Unit, and shall have the right to the horizontal, vertical and lateral support of his Unit and such rights shall be perpetual and shall be appurtenant to and pass with title to each Unit.

21.4. The Association shall have an easement to make such use of the Common Areas and Facilities as may be necessary or convenient to perform the duties and functions that each is obligated or permitted to perform pursuant to this Declaration, including, without limitation, the right to construct and maintain the Common Areas and Facilities for use by the Owners and the Association.

21.5. All conveyances of Units within the Project shall be construed to grant and reserve such easements as are provided herein, even though no specific reference to such easements appears in any such conveyance.

22. NOTICES.

Any notice permitted or required to be delivered as provided herein may be delivered either personally, by first class mail, by express mail or overnight courier service providing proof of delivery, or by telecopy or facsimile transmission. Notice to Owners shall be addressed to each Owner at the address given by such Owners to the Board for the purpose of service of such notice or to the Unit of such Owner if no such address has been given to the Board. Notice shall be deemed given when actually received if personally delivered or sent by overnight courier; if faxed, when the fax is received, except that if the fax is received at a time other than the normal business hours of the office at which it is received, on the next regular business day; and if by mail, the earlier of the day actually received or the third business day after the notice is deposited in the United States Mail, properly addressed and postage prepaid. Such address may be changed from time to time by notice in writing to the Board.

23. NO WAIVER.

The failure of the Board or its agents or designees to insist, in one or more instances, upon the strict performance of any of the terms, covenants, conditions or restrictions of this Declaration or the Bylaws, to exercise any right or option herein contained or to serve any notice or institute any action, shall not be construed as a waiver or a relinquishment for the future of such term, covenant, condition or restriction; but such term, covenant, condition or restriction shall remain in full force and effect. The receipt and acceptance by the Board or its agents or designees of the payment of any assessment from an Owner with knowledge of the breach of any

covenant hereof shall not be deemed a waiver of such breach, and no waiver by the Board of any provision hereof shall be deemed to have been made unless expressed in writing and signed by the Board.

24. ENFORCEMENT.

24.1. All Owners, guests or lessees of an Owner, and persons under Owner's control, shall strictly comply with the provisions of the Declaration, the Bylaws, and the rules and regulations and decisions issued pursuant thereto. The Association and any aggrieved Owner shall have a right of action against Owners who fail to comply with provisions of the Declaration or the decisions of the Association. Owners shall have a similar right or action against the Association. Failure to so comply shall be grounds for: (i) an action to recover sums due for damages or injunctive relief or both, maintainable by the Board, or its agent or designee on behalf of the Owners, or in an appropriate case, by an aggrieved Owner, and/or (ii) the Board to impose monetary penalties, temporary suspensions of an Owner's right to the use of the Common Areas and Facilities, or other appropriate discipline so long as any such Owner has been given notice and has had an opportunity to present a written or oral defense to the charges in a hearing. The Board shall determine whether the Owner's defense shall be oral or written. After the hearing, but before any disciplinary action is taken, the Owner shall be notified of the decision of the Board. The Board may delegate to the Manager the power and authority to carry out disciplinary actions duly imposed.

24.2. The Board may adopt and enforce reasonable rules and regulations that are not inconsistent with the provisions of this Declaration. The Board may also adopt and enforce reasonable fine schedules, and may impose and collect fines from Owners who violate the provisions of this Declaration. All costs and expenses incurred by the Board in enforcing the rules and regulations, and enforcing or collecting fines, shall be paid by the offending Owner and shall be secured by a lien against the Unit owned by the offending Owner. Said lien shall be enforced in the same manner as the lien securing payment of assessments, as provided in this Declaration.

24.3. The Association shall not be empowered to cause the absolute forfeiture of an Owner's right, title or interest in the Project on account of the Owner's failure to comply with the provisions of the Declaration or the rules and regulations for the Project except pursuant to:

24.3.1. The judgment of a court; or

24.3.2. A foreclosure for the failure of an Owner to pay assessments or fines duly levied by the Association.

24.3.3. The Association shall only be empowered to cause or require alteration or demolition of any construction to enforce any restrictions contained in this Declaration pursuant to judicial proceedings.

EXHIBIT A**Schedule of Units and Votes**

Except for Units owned by Declarant as a Class B Member, there shall be one (1) vote for each Unit in the Project.¹ The voting percentage for each Unit shall be equal to a fraction, the numerator of which shall be the vote(s) held by the owner of such Unit and the denominator of which shall be the total number of all votes for all Units in the Project (including all votes of all Class A Members and all Class B Members).

¹ Any Unit owned by Declarant as a Class B member shall be entitled to three (3) votes per Unit, as set forth in the body of the Declaration.

EXHIBIT B

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Association Bylaws

BYLAWS
OF
THE COVE AT JORDAN RIVER OWNERS ASSOCIATION, INC.
A Utah Nonprofit Corporation
Organized Under the Utah Revised Nonprofit Corporation Act

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**BYLAWS
OF
THE COVE AT JORDAN RIVER OWNERS ASSOCIATION, INC.
A UTAH NONPROFIT CORPORATION**

**ARTICLE I
NAME, PRINCIPAL OFFICE, AND DEFINITIONS**

Section 1.1 Name. The name of the Association is "The Cove at Jordan River Owners Association, Inc." (the "Association").

Section 1.2 Principal Office. The principal office of the Association shall be located at any place as may be designated in the most recent document on file with the Utah Department of Commerce, Division of Corporations and Commercial Code (the "Division") providing information regarding the principal office of the Association. The Association shall maintain at its principal office a copy of such corporate records as may be required by Section 16-6a-1601 of the Utah Revised Nonprofit Corporation Act (the "Act").

Section 1.3 Registered Office. The registered office of the Association required to be maintained by Section 16-6a-501 of the Act shall be the registered office as originally so designated in the Association's Articles of Incorporation or subsequently designated as the Association's registered office in the most recent document on file with the Division providing such information. The Association shall maintain a registered agent at the registered office, as required by Section 16-6a-501 of the Act. The registered office and registered agent may be changed from time to time as provided in Sections 16-6a-501 and 502 of the Act.

Section 1.4 Definitions. These Bylaws shall operate under the Act, as amended. The words used in these Bylaws shall be given their normal, commonly understood definitions. Capitalized terms shall have the same meaning as set forth in the Declaration of Covenants, Conditions and Restrictions (the "Declaration") of The Cove at Jordan River Townhouses, a Planned Unit Development (the "Project") created by recording the Declaration in the Office of the Utah County Recorder's Office.

**ARTICLE II
MEMBERSHIP, VOTING AND MEETINGS**

Section 2.1 Association Membership. Every Person who is the Owner of a Unit, including Declarant (as defined in the Declaration), shall be a member of the Association, and the Declarant shall be a member of the Association so long as it owns any part of the Project or Unit. The foregoing is not intended to include Persons who hold an interest merely as security for the performance of an obligation, and the giving of a security interest shall not terminate the Owner's Association Membership.

Section 2.2 Classes of Association Membership; Voting. The Association shall have two classes of voting memberships:

2.2.1 Class A Association Memberships. All Association Memberships shall be Class A Association Memberships except the Class B Association Memberships held by the Declarant. Each Owner of a Unit, which is an Assessable Unit, shall become a Class A Association Member of the Association, and shall receive one (1) Class A Association Membership for each such Unit. Each Class A Association Membership shall have one (1) vote. Each Owner shall be entitled to vote for each Class A Association Membership held by the Owner (each, a "Class A Vote"), subject to the authority of the Board to suspend the voting rights of the Owner for violations of the Declaration in accordance with its provisions thereof. Each Class A Association Membership in the Association shall be held jointly by all Owners of a Unit.

2.2.2 Class B Association Memberships. Declarant shall be a Class B Association Member of the Association and shall possess one (1) Class B Association Membership for each Unit held by Declarant. Each Class B Association Membership shall have three (3) votes (each, a "Class B Vote"). Class B Association Memberships shall cease and shall be converted to Class A Association Memberships at such time as Units are sold by Declarant to purchasers of such Units.

2.2.3 Vote Calculations. Except as otherwise expressly provided in the Declaration, any issue put to a vote by ballot without a meeting or at a duly called meeting of Association Members at which a quorum is present shall be decided by a simple majority of all votes represented in person or by valid proxy at such meeting, regardless whether such votes are otherwise deemed to be Class A Votes or Class B Votes.

Section 2.3 Voting Procedures. A change in the ownership of a Unit shall be effective for voting purposes from the time the deed or other instrument effecting such change is recorded in the Utah County Recorder's Office, or, in connection with Owners who are vendees, upon the execution of the installment purchase contract. Thereafter, the new Owner shall give the Board written notice of such change of ownership and provide satisfactory evidence thereof. The vote for each Class A Association Membership must be cast as a unit, and fractional votes shall not be allowed. In the event that a Unit is owned by more than one Person and such Owners are unable to agree among themselves as to how their Class A Vote(s) shall be cast, they shall lose their right to vote on the matter in question. If any Class A Association Member casts a vote representing a certain Unit, it will thereafter be conclusively presumed for all purposes that he, she or it was acting with the authority and consent of all other Owners of the same Unit unless objection thereto is made at the time the vote is cast. In the event more than one Owner attempts to cast the vote for a particular Unit, the vote for that Unit shall be deemed void and shall not be counted.

Section 2.4 Association Membership Rights. Each Association Member shall have the rights, duties and obligations set forth in the Declaration and these Bylaws, as the same may be amended from time to time.

Section 2.5 Transfer of Class A Association Membership. The rights and obligations of the Owner of a Class A Association Membership in the Association shall not be assigned, transferred, pledged, designated, conveyed or alienated in any way except upon transfer of ownership to an Owner's Unit and then only to the transferee of ownership to the Unit. A transfer of ownership to a Unit may occur by deed, intestate succession, testamentary disposition, foreclosure or such other legal process as now in effect or as may hereafter be established under or pursuant to the laws of the State of Utah. Any attempt to make a prohibited transfer shall be void. Any transfer of ownership to a Unit shall operate to transfer the Class A Association Membership(s) appurtenant to such Unit(s) to the new Owner(s) thereof.

Section 2.6 Annual Meeting. The annual meeting of Association Members shall be held each year on a date and at a time designated by the Association Members. In the absence of such designation, the annual meeting of Association Members shall be held on the first Saturday of March in each year at 10:00 a.m. at a reasonable location designated by the Board. However, if the day fixed for the annual meeting is a legal holiday in Utah, then the meeting shall be held at the same time and place on the next succeeding business day. At the meeting, directors shall be elected and any other proper business may be transacted. If the election of directors shall not be held on the day designated herein for any annual meeting of the Association Members, or at any adjournment thereof, the Board shall cause the election to be held at a meeting of the Association Members as soon thereafter as may be convenient. Failure to hold an annual meeting as required by these Bylaws shall not affect the validity of any corporate action or work a forfeiture or dissolution of the Association.

Section 2.7 Special Meetings. Special meetings of the Association may be called by the President, the Board, or Association Members representing at least thirty percent (30%) or more of the votes of the Association.

Section 2.8 Place of Meetings. Each annual or special meeting of the Association Members shall be held at such place, within Utah, as may be designated by the Board. In the absence of any such designation, meetings shall be held at the principal office of the Association.

Section 2.9 Notice of Meetings.

2.9.1 Required Notice. The Association shall provide notice to Association Members of the date, time, and place of each annual and special meeting of Association Members no fewer than fifteen (15) nor more than sixty (60) days before the meeting date, in accordance with the requirements of Sections 103 and 704 of the Act. Unless otherwise required by law or the Articles, the Association is required to give the notice only to Association Members entitled to vote at the meeting.

2.9.2 Contents of Notice. The notice of each special meeting must include a description of the purpose or purposes for which the meeting is called. Except as provided in this Section 2.9.2, or as otherwise required by the Act, other applicable law, or the Articles, notice of an annual meeting need not include a description of the purpose or purposes for which the meeting is called.

2.9.3 Adjourned Meeting. If any annual or special meeting of Association Members is adjourned to a different date, time or place, then, subject to the requirements of the following sentence, notice need not be given of the new date, time and place if the new date, time and place are announced at the meeting before adjournment. If the adjournment is for more than thirty (30) days, or if after the adjournment a new record date for the adjourned meeting is or must be fixed under Section 706 of the Act and Section 2.10 of these Bylaws, notice of the adjourned meeting must be given pursuant to the requirements of Section 2.9.1 of these Bylaws to Association Members of record entitled to vote at the meeting.

2.9.4 Waiver of Notice. An Association Member may waive notice of any meeting (or any other notice required by the Act, the Articles or these Bylaws) by a writing signed by the Association Member entitled to the notice, which is delivered to the Association (either before or after the date and time stated in the notice as the date and time when any action will occur), for inclusion in the minutes or filing with the Association records. An Association Member's attendance at a meeting: (a) waives any objection to lack of notice or defective notice of the meeting, unless the Association Member at the beginning of the meeting objects to holding the meeting or transacting business at the meeting because of lack of notice or defective notice; and (b) waives objection to consideration of a particular matter at the meeting that is not within the purpose or purposes described in the meeting notice, unless the Association Member objects to considering the matter when it is presented.

Section 2.10 Fixing of Record Date. For the purpose of determining the Class A Association Members entitled to: (i) notice of or to vote at any meeting of Association Members or any adjournment thereof; (ii) take action without a meeting; (iii) demand a special meeting; or (iv) take any other action, the Board may fix in advance a date as the record date. As provided in Section 706(4) of the Act, a record date fixed pursuant to such section may not be more than seventy (70) days prior to the date on which the particular meeting or action requiring such determination of Association Members is to be taken. If no record date is otherwise fixed by the Board as provided herein, then the record date for the purposes set forth below shall be the close of business on the following dates:

2.10.1 Annual or Special Meeting. With respect to a determination of Association Members entitled to notice of and to vote at an annual or special meeting of Association Members, the day before the first notice is delivered to Association Members.

2.10.2 Demand for Special Meeting. With respect to a determination of Association Members entitled to demand a special meeting of Association Members pursuant to Section 702(1)(b) of the Act, the later of (i) the earliest date of any of the demands pursuant to which the meeting is called, and (ii) the date that is sixty days prior to the date the first of the written demands pursuant to which the meeting is called is received by the Association.

2.10.3 Action Without Meeting. With respect to a determination of Association Members entitled to take action without a meeting (pursuant to Section 2.17 of these

Bylaws and the Act) or entitled to be given notice of an action so taken, the date the first Association Member delivers to the Association a writing upon which the action is taken.

A determination of Association Members entitled to notice of, or to vote at, any meeting of Association Members is effective for any adjournment of the meeting unless the Board fixes a new record date, which it must do if the meeting is adjourned to a date more than one hundred twenty (120) days after the date fixed for the original meeting.

Section 2.11 Association Member List for Meetings. The officer or agent having charge of the membership transfer books for Association Memberships of the Association shall prepare a list of the names of all Association Members entitled to be given notice of, and to vote at, each meeting of Association Members, in compliance with the requirements of Section 710 of the Act. The list must be in alphabetical order within each class or series of Association Membership and must show the address of, and the number of votes held by, each Association Member. The Association Member list must be available for inspection by any Association Member beginning on the earlier of (i) ten (10) days before the meeting for which the list was prepared, or (ii) two (2) business days after notice of the meeting is given, and continuing through the meeting and any adjournments thereof. The list must be available at the Association's principal office or at a place identified in the meeting notice in the city where the meeting is to be held. An Association Member or an Association Member's agent or attorney is entitled on written demand to the Association, and subject to the provisions of Sections 710, 1602 and 1603 of the Act, to inspect and copy, at such Association Member's sole and exclusive expense, the list during regular business hours, during the period it is available for inspection. The list is to be available at the meeting for which it was prepared, and any Association Member or any Association Member's agent or attorney is entitled to inspect the list at any time during the meeting for any purpose germane to the meeting. The Association Member list is to be maintained in written form or in another form capable of conversion into written form within a reasonable time.

Section 2.12 Quorum and Adjournment. The presence in person of Association Members representing a majority of the total votes (regardless of whether they are Class A Votes or Class B Votes, if any) in the Association at any meeting of the Association held in response to notice to all Association Members of record properly given shall constitute a quorum. In the absence of a quorum at an Association meeting, a majority of those present in person may adjourn the meeting to another time, but may not transact any other business. An adjournment for lack of a quorum by those in attendance shall be to a date not less than five (5) nor more than thirty (30) days from the original meeting date. If the time and place for an adjourned meeting is not fixed by those in attendance at the original meeting, or if for any reason a new date is fixed for the adjourned meeting after adjournment, notice of the time and place of the adjourned meeting shall be given to Association Members in the manner prescribed for regular meetings of the Association.

Section 2.13 Business. The Association Members present at a duly called or held meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough to leave less than a quorum, provided that Association Members representing at least thirty percent (30%) of the total votes (whether Class A Votes or

Class B Votes) in the Association remain in attendance, and provided that any action taken is approved by at least a majority of the total votes required to constitute a quorum.

Section 2.14 Proxies. Association Members may vote by proxy. No proxy shall be valid unless signed by the Owner or his or her duly authorized attorney-in-fact, dated, and filed with the Secretary of the Association prior to any meeting for which it is to be effective. A proxy is valid for eleven (11) months from its date of execution, unless a longer period is expressly provided in the proxy.

Section 2.15 Conduct of Meetings. The President shall preside over all meetings of the Association, and the Secretary shall keep the minutes of the meeting and record in a minute book all resolutions adopted at the meeting, as well as a record of all transactions occurring at the meeting. *Robert's Rules of Order* (latest edition) shall govern the conduct of the Association's meeting when not in conflict with these Bylaws.

Section 2.16 Minutes. Minutes of the annual and special meetings of the Association shall be distributed to each Association Member within sixty (60) days after the meeting.

Section 2.17 Action Without Meeting. Unless otherwise provided in the Articles, and subject to the provisions of Section 707 of the Act, any action required or permitted to be taken at a meeting of the Association Members may be taken without a meeting and without prior notice, if one or more written consents, setting forth the action so taken, shall be signed by Association Members having no less than the minimum number of votes that would be necessary to authorize or take the action at a meeting at which a quorum was present and voted. Unless the written consents of all Association Members entitled to vote have been obtained, notice of any Association Member approval without a meeting shall be given at least ten (10) days before the consummation of the action authorized by the approval. Such notice shall meet the requirements of, and be delivered to all Association Members identified in, Section 707(2) of the Act. An action taken by written consent of the Association Members as provided herein has the same effect as action taken at a meeting of such members, and may be so described in any document.

2.17.1 Revocation of Written Consent. Any Association Member giving a written consent, or the Association Member's proxy-holder, personal representative or transferee may revoke a consent by a signed writing describing the action and stating that the Association Member's prior consent is revoked, if the writing is received by the Association prior to the effectiveness of the action, as provided in Section 707(3) of the Act.

2.17.2 Termination of Written Consent. An action taken by written consent of the Association Members as provided herein is not effective unless all written consents on which the Association relies for the taking of the action are received by the Association within a sixty-day period. An action so taken is effective as of the date the last written consent necessary to effect the action is received by the Association, unless all of the written consents necessary to effect the action specify a later date as the effective date of the action, in which case the later date shall be the effective date of the action.

2.17.3 Method of Transmission of Consents. Unless otherwise provided in these Bylaws, the written consents may be received by the Association by electronically transmitted facsimile or other form of communication providing the Association with a complete copy thereof, including a copy of the signature thereto.

2.17.4 Election of Directors by Written Consent. Notwithstanding the other provisions of these Bylaws, directors may not be elected by written consent except by unanimous written consent of all Association Members entitled to vote for the election of directors.

2.17.5 Record Date. As set forth in Section 2.10.2, if not otherwise determined as permitted by the Act and these Bylaws, the record date for determining Association Members entitled to take action without a meeting or entitled to be given notice of any action so taken is the date the first Association Member delivers to the Association a writing upon which the action is taken.

Section 2.18 Waiver of Notice. Waiver of notice of a meeting of the Association Members shall be deemed the equivalent of proper notice. Any Association Member may, in writing, waive notice of any meeting of the Association Members, either before or after such meeting. Attendance at a meeting by an Association Member shall be deemed a waiver by such Association Member of notice of the time, date, and place thereof, unless such Association Member specifically objects to lack of proper notice at the time the meeting is called to order. Attendance at a special meeting also shall be deemed a waiver of notice of all business transacted unless an objection on the basis of lack of proper notice is raised before the business is put to a vote.

Section 2.19 Meetings by Telecommunication. As permitted by Section 708 of the Act, unless otherwise provided in these Bylaws, any or all of the Association Members may participate in an annual or special meeting of Association Members by, or the meeting may be conducted through the use of, any means of communication by which all persons participating in the meeting can hear each other during the meeting. An Association Member participating in a meeting by this means is considered to be present in person at the meeting.

Section 2.20 Maintenance of Records and Association Member Inspection Rights.

2.20.1 Corporate Records. As required by Section 1601 of the Act, the Association shall keep as permanent records minutes of all meetings of its Association Members and Board, a record of all actions taken by the Association Members or Board without a meeting, a record of all actions taken on behalf of the Association by a committee of the Board in place of the Board, and a record of all waivers of notices of meetings of Association Members, meetings of the Board, or any meetings of committees of the Board. The Association shall also maintain appropriate accounting and Association Member records as required by the statute. The Association shall keep at its principal office those corporate records and documents identified in Section 1601(5) of the Act and listed in the following paragraph.

2.20.2 Inspection Rights of Records Required at Principal Office. Pursuant to Section 1602(1) of the Act, an Association Member or director of the Association (or such personal agent or attorney) who gives the Association written notice of the demand at least five (5) business days before the proposed inspection date, has the right to inspect and copy, at such Association Member's or director's sole and exclusive expense, during regular business hours, any of the following records, all of which the Association is required to keep at its principal office:

- 2.20.2.1 its Articles of Incorporation as then in effect;
- 2.20.2.2 its Bylaws as then in effect;
- 2.20.2.3 the minutes of all Association Members, meetings, and records of all actions taken by Association Members without a meeting, for the past three (3) years;
- 2.20.2.4 all written communications within the past three (3) years to Association Members as a group or to the holders of any class or series of Association Memberships as a group;
- 2.20.2.5 a list of the names and addresses of its current officers and directors;
- 2.20.2.6 its most recent annual report delivered to the Division; and
- 2.20.2.7 all financial statements prepared for periods ending during the last three (3) years that an Association Member could request under Section 1606 of the Act.

2.20.3 Conditional Inspection Rights. In addition to the inspection rights set forth in paragraph 2.20.2 above, as provided in Section 1602(2) of the Act, an Association Member or director of the Association (or such person's agent or attorney) who gives the Association a written demand in good faith and for a proper purpose at least five (5) business days before the requested inspection date, and describes in the demand with reasonable particularity the records proposed to be inspected and the purpose of the inspection, is entitled to inspect and copy, during regular business hours at a reasonable location specified by the Association, any of the following records of the Association:

- 2.20.3.1 excerpts from minutes of meetings of, and from actions taken by, the Association Members, the Board, or any committees of the Board, to the extent not subject to inspection under paragraph 2.20.2 of this Section 2.20;
- 2.20.3.2 accounting records of the Association; and
- 2.20.3.3 the record of Association Members (compiled no earlier than the date of the demand for inspection).

For the purposes of paragraph 2.20.3, a proper purpose means a purpose reasonably related to the demanding party's interest as an Association Member or director. A party may not use any information obtained through the inspection or copying of records permitted by this paragraph 2.20.3 for any purposes other than those set forth in a proper demand as described above, and the officers of the Association are authorized to take appropriate steps to ensure compliance with this limitation.

Section 2.21 Financial Statements and Share of Information. Within fifteen (15) days of receipt of a written request of any Association Member, the Association shall mail to the requesting Association Member its most recent annual or quarterly financial statements.

Section 2.22 Voting for Directors. Unless otherwise provided in the Articles or the Act, directors are elected by a plurality of the total votes (including Class A Votes and Class B Votes) cast by the Association Members entitled to vote in the election at a meeting at which a quorum is present, in accordance with the requirements and procedures set forth in Section 804 of the Act. There shall be no cumulative voting. The candidate(s) receiving the most Votes (regardless of whether they are Class A Votes or Class B Votes, if any) shall be elected as directors.

ARTICLE III BOARD OF DIRECTORS

Section 3.1 Number and Powers. The affairs of the Association shall be conducted by a Board of up to seven (7) directors (odd numbered totals only) and such officers as the Board may elect or appoint in accordance with the Articles and these Bylaws as the same may be amended from time to time. The initial Board shall be composed of at least three (3) directors, appointed by the Declarant. The Board may also appoint various committees and appoint a manager who shall, subject to the direction of the Board, be responsible for the day-to-day operation of the Association. The Board shall determine the compensation to be paid to the manager. The Board's responsibilities shall include, but shall not be limited to, the following:

- 3.1.1 administration, including administrative support as required for the Design Review Committee;
- 3.1.2 preparing and administering an operational budget;
- 3.1.3 establishing and administering an adequate reserve fund;
- 3.1.4 scheduling and conducting the annual meeting and other meetings of the Association Members;
- 3.1.5 collecting and enforcing the Assessments;
- 3.1.6 accounting functions and maintaining records;
- 3.1.7 promulgation and enforcement of the Association Rules;
- 3.1.8 pledging future Assessments as collateral to secure Association financing;

3.1.9 maintenance of the Common Areas and Facilities; and

3.1.10 all the other duties imposed upon the Board pursuant to the Declaration and these Bylaws, including enforcement thereof.

Section 3.2 Composition. Each director shall have one (1) equal vote. Except with respect to directors appointed by the Declarant, the directors shall be Association Members or spouses of such Association Members.

Section 3.3 Nomination of Directors. Nominations for election to the Board shall be made by a Nominating Committee. The Nominating Committee shall consist of a chairperson, who shall be a director, and three (3) or more Association Members. The Nominating Committee shall be appointed by the Board not less than thirty (30) days prior to each annual meeting of the Association Members to serve a term of one (1) year or until their successors are appointed, and such appointment shall be announced at each such annual meeting. The Nominating Committee shall make as many nominations for election to the Board as it shall in its discretion determine. Nominations shall also be permitted from the floor. All candidates shall have a reasonable opportunity to communicate their qualifications to the Association Members and to solicit votes.

Section 3.4 Election and Term of Office. Directors shall be elected by the Association Members, or appointed by the other directors, as set forth in these Bylaws. Directors shall hold office for a term of two (2) years, or until the appointment or election of their successors. Directors may be elected to serve any number of consecutive terms.

Section 3.5 Removal of Directors and Vacancies. Any director may be removed, with or without cause, by the vote of Association Members holding a majority of Votes (regardless of whether they are Class A Votes or Class B Votes, if any) entitled to be cast for the election of such director. Any director whose removal is sought shall be given notice prior to any meeting called for that purpose. Upon removal of a director, a successor shall be elected by the Association Members entitled to elect the director so removed to fill the vacancy for the remainder of the term of such director.

3.5.1 Removal by Directors. Any director who has three (3) consecutive unexcused absences from Board meetings, or who is more than thirty (30) days delinquent in the payment of any Assessment or other charge due the Association, may be removed by a majority of the directors present at a regular or special meeting at which a quorum is present, and a successor shall be appointed by the Board to fill the vacancy for the remainder of the term.

3.5.2 Appointment by Directors. In the event of the death, disability, or resignation of a director, the Board shall declare a vacancy and appoint a successor to fill the vacancy until the next annual meeting, at which time the Association Members may elect a successor for the remainder of the term.

Section 3.6 Compensation. No director shall receive any compensation from the Association for acting as such unless approved by Association Members representing a majority of the total Class A Votes in the Association at a regular or special meeting. Any director may

be reimbursed by the Association for reasonable expenses of the directors for attendance at the Board meetings, or any other expenses incurred on behalf of the Association upon approval of a majority of the other directors. Any directors may be employed by the Association in another capacity and receive compensation for such employment; provided further, that such employment shall be approved by vote or in writing by all directors not including the director to be employed.

Section 3.7 Regular Meetings. The Board meetings shall be held at least quarterly at such times and places as the Board shall determine. No notice shall be necessary to the newly elected Board in order to legally constitute such meeting, provided a majority of the directors are present. The Board may set a schedule of additional regular meetings by resolution, and no further notice is necessary to constitute regular meetings.

Section 3.8 Special Meetings. Special meetings of the Board may be called by written notice signed by any two (2) directors. The notice shall specify the time and place of the meeting and the nature of any special business to be considered. The person or persons authorized to call special meetings of the Board may fix the time and place of the meeting so called. Written notice of any special meeting shall be sent to all directors not less than seventy-two (72) hours prior to the scheduled time of the meeting; provided, however, that notice of such meeting need not be given to any director signing a waiver of notice or a written consent to the holding of such meeting. If mailed, such notice shall be deemed to be delivered when deposited in the U.S. mail, with first-class postage thereon prepaid. If an agenda is prepared for a special meeting, the meeting need not be restricted to discussions of those items listed on the agenda.

Section 3.9 Notice. Unless the Articles, Bylaws, or the Act provide otherwise, regular meetings of the Board may be held without notice of the date, time, place, or purposes of the meeting. Unless the Articles or Bylaws provide for a longer or shorter period, special meetings of the Board must be preceded by two days' notice of the date, time, and place of the meeting. The notice need not describe the purpose of the special meeting unless required by the Articles, Bylaws, or the Act. The giving of notice of any meeting shall be governed by the rules set forth in Section 103 of the Act.

Section 3.10 Waiver of Notice. The transactions of any Board meeting, however called and noticed or wherever held, shall be as valid as though taken at a meeting duly held after regular call and notice if (i) a quorum is present, and (ii) either before or after the meeting each of the directors not present signs a written waiver of notice, a consent to holding the meeting, or an approval of the minutes. The waiver of notice or consent need not specify the purpose of the meeting. Notice of a meeting also shall be deemed given to any director who attends the meeting without protesting before or at its commencement about the lack of adequate notice.

Section 3.11 Inspection of Books and Records. Any director shall have the right at any reasonable time to inspect the books and records of the Association; provided, however, that the Board may restrict such inspection rights to the extent that the exercise thereof by any director is determined to unduly interfere with the Association's day-to-day business activities.

Section 3.12 Quorum, Voting and Adjournment. A majority of the Board shall constitute a quorum, and if a quorum is present, the decision of a majority of those present shall

be the act of the Board. If less than a quorum is present at the meeting, a majority of the directors present may adjourn the meeting from time to time without further notice other than an announcement at the meeting, until a quorum shall be present. No director may vote or act by proxy at any Board meeting.

Section 3.13 Open Meetings. The directors shall act only as a Board, and individual directors shall have no powers as such. Regular and special meetings of the Board shall be open to all Association Members; provided, however, that the Association Members who are not on the Board may not participate in any deliberation or discussion unless permission to speak is requested on his or her behalf by a director. In such case, the President may limit the time any Association Member may speak. Notwithstanding the above, the Board may, with the approval of a majority of a quorum of its directors, adjourn the meeting and reconvene in executive session, excluding Association Members, to discuss and vote upon matters of a sensitive nature, such as personnel matters, litigation in which the Association is or may become involved, and similar orders of business.

Section 3.14 Action Without Meeting. Any action that is required or permitted to be taken at a Board meeting may be taken without a meeting if all of the Board or all Association Members of a committee established for such purposes, as the case may be, severally or collectively consent in writing to any action taken or to be taken by the Association, and the number of the directors constitutes a quorum. Action taken pursuant to this Section 3.14 shall be a valid corporate action as though it had been authorized at a meeting of the Board or the committee, as the case may be. The Secretary shall file these consents with the minutes of the Board meetings.

Section 3.15 Board Committees. The Board may designate by resolution of the directors and appoint such committees and subcommittees as the Board deems appropriate, from time to time. Each committee shall exercise those powers granted to it by an enabling resolution of the Board; provided, however, that no committee shall exercise any power which is excluded from the delegation of power of the Board by the laws of the State of Utah, the Articles, or these Bylaws.

Section 3.16 Telephonic Conference. Directors or any committee thereof may participate in a meeting of the Board or committee by means of telephonic conference or similar communications equipment by which all persons participating in the meeting can hear each other at the same time. Such participation shall constitute presence in person at the meeting.

Section 3.17 Right of Declarant to Disapprove Actions. So long as a Class B Association Membership exists, the Declarant shall have the right to disapprove any action, policy or program of the Association, the Board and any committee which, in the sole and exclusive judgment of the Declarant, would tend to impair rights of the Declarant under the Declaration or these Bylaws, or interfere with development of the project, or diminish the level of services being provided by the Association. No such action, policy or program shall become effective or be implemented until and unless:

3.17.1 The Declarant shall have been given written notice of all meetings and proposed actions approved at meetings of the Association, the Board or any committee

thereof by certified mail, return receipt requested, or by personal delivery at the address it has registered with the Secretary of the Association, as it may change from time to time, which notice shall, except in the case of the regular meetings held pursuant to the Bylaws, set forth in reasonable particularity the agenda to be followed at said meeting; and

3.17.2 The Declarant shall be given the opportunity at any such meeting to join in or to have its representatives or agents join in discussion from the floor of any prospective action, policy, or program which would be subject to the right of disapproval set forth herein. The Declarant, its representatives or agents shall make their concerns, thoughts, and suggestions known to the Board and/or the Association Members of the subject committee. The Declarant shall have and is hereby granted an exclusive right to disapprove any such action, policy, or program authorized by the Association, the Board or any committee thereof, if Board, committee, or Association approval is necessary for such action. This right may be exercised by the Declarant, its successors, assigns, representatives, or agents at any time within ten (10) days following the meeting held pursuant to the terms and provisions thereof. This right to disapprove may be used to block proposed actions but shall not extend to the requiring of any action or counteraction on behalf of any committee, the Board or the Association. The Declarant shall not use its right to disapprove to reduce the level of services which the Association is obligated to provide or to prevent capital repairs or any expenditure required to comply with applicable laws and regulations.

Section 3.18 Fiscal Year. The fiscal year of the Association shall be set by resolution of the Board. In the absence of a Board resolution, the fiscal year shall be the calendar year.

ARTICLE IV OFFICERS

Section 4.1 Designation. The principal officers of the Association shall be a President, Vice President, Secretary and Treasurer, all of whom shall be elected by the Board. The Board may appoint other officers as it finds necessary and such officers shall have the authority to perform the duties prescribed by the Board. Any two offices may be held by the same person, except the offices of President and Secretary. All officers must be members of the Board.

Section 4.2 Election and Term. The officers of the Association shall be elected annually by the Board at the organizational meeting of each new Board. They shall hold office at the pleasure of the Board.

Section 4.3 Removal and Vacancies. Upon the affirmative vote of a majority of the Board, any officer may be removed, either with or without cause. A vacancy in any office arising because of death, resignation, removal or otherwise may be filled at any regular meeting of the Board or at any special meeting of the Board called for that purpose for the unexpired portion of the term.

Section 4.4 President. The President shall be the chief executive officer of the Association. The President shall preside at all meetings of the Association Members and of the Board. The President shall have all of the general powers and duties which are incident to the office of president of a nonprofit Association organized under the laws of the State of Utah, including but not limited to the power to appoint committees from among the Association Members from time to time as the President may decide is appropriate to assist in the conduct of the affairs of the Association. The President may fulfill the role of treasurer in the absence of the treasurer. The President may cause to be prepared and may execute amendments, attested by the Secretary, to the Declaration and these Bylaws on behalf of the Association, following authorization or approval of the particular amendment as applicable.

Section 4.5 Vice President. The Vice President shall perform the functions of the President in his or her absence or inability to serve.

Section 4.6 Secretary. The Secretary shall keep the minutes of all meetings of the Association Members and the Board. The Secretary shall have charge of the Association's books and papers as the Board may direct and shall perform all the duties incident to the office of secretary of a nonprofit Association organized under the laws of the State of Utah. The Secretary may cause to be prepared and may attest to execution by the President of amendments to the Declaration and these Bylaws on behalf of the Association, following authorization or approval of the particular amendment as applicable.

Section 4.7 Treasurer. The Treasurer shall be responsible for the Association's funds and securities, for keeping full and accurate financial records and books of account showing all receipts and disbursements and for the preparation of all required financial data. The Treasurer shall be responsible for the deposit of all monies and other valuable effects in depositories designated by the Board and shall perform all the duties incident to the office of treasurer of a nonprofit Association organized under the laws of the State of Utah. The Treasurer may endorse on behalf of the Association, for collection only, checks, notes and other obligations and shall deposit the same and all monies in the name of and to the credit of the Association in banks designated by the Board. Except for reserve funds described below, the Treasurer may have custody of and shall have the power to endorse for transfer, on behalf of the Association, stock, securities or other investment instruments owned or controlled by the Association or as fiduciary for others. Reserve funds of the Association shall be deposited in segregated accounts or in prudent investments, as the Board decides. Funds may be withdrawn from these reserves for the purposes for which they were deposited, by check or order, authorized by the Treasurer, and executed by two (2) directors, one of whom may be the Treasurer if the Treasurer is also a director.

Section 4.8 Resignation. Any officer may resign at any time by giving written notice to the Board, the President, or the Secretary. Such resignation shall take effect on the date of the receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 4.9 Execution of Instruments. Except as otherwise provided in these Bylaws, all agreements, contracts, deeds, leases, checks and other instruments of the Association shall be

executed by any officer of the Association or by any other person or persons designated by the Board.

Section 4.10 Statements of Unpaid Assessments. The Treasurer, manager or, in their absence, any officer having access to the books and records of the Association may prepare, certify, and execute statements of unpaid Assessments. The Association may charge a reasonable fee for preparing statements of unpaid Assessments. The amount of this fee and the time of payment shall be established by resolution of the Board.

Section 4.11 Compensation. Officers shall receive such compensation for their services as may be authorized or ratified by the Board and no officer shall be prevented from receiving compensation by reason of the fact that such officer is also a director of the corporation. Appointment as an officer shall not of itself create a contract or other right to compensation for services performed as such officer.

ARTICLE V ENFORCEMENT

Section 5.1 Association's General Rights of Enforcement. The Association, as the agent and representative of the Owners and Association Members shall have the right to enforce, by any proceeding at law or in equity, the covenants set forth in the Declaration, these Bylaws, and/or any and all covenants, restrictions, reservations, charges, servitudes, assessments, conditions, liens or easements provided for in any contract, deed, declaration or other instrument which (a) shall have been executed pursuant to, or subject to, the provisions of the Declaration, or (b) otherwise shall indicate that the provisions of such instrument were intended to be enforced by the Association or by Declarant.

Section 5.2 Abatement and Enjoinment of Violations by Owners. In addition to the provisions set forth in Section 5.1 above, the violation of any of the Association Rules or the breach of any provision of the Declaration or these Bylaws shall also give the Board the right, after notice and hearing, except in case of an emergency, in addition to any other rights set forth in these Bylaws:

5.2.1 To enter the Unit or the Common Area in which, or as to which, the violation or breach exists and to summarily abate and remove, at the expense of the defaulting Owner, any structure, thing or condition (except for additions or alterations of a permanent nature that may exist in that Unit) that is existing and creating a danger to the Common Area or Common Facilities contrary to the intent and meaning of the provisions of the Declaration. The Board shall not be deemed liable for any manner of trespass by this action; or

5.2.2 To enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any breach.

Section 5.3 Fine for Violation. The Board may adopt resolutions providing for fines or other monetary penalties for the infraction of the Declaration and the Bylaws. Fines will be levied after notice thereof and an opportunity to be heard. The Board may levy fines in amounts that it, in its sole discretion, shall determine to be reasonable for each violation of the Declaration

and these Bylaws, including those violations which persist after notice and an opportunity for a hearing is given.

Section 5.4 Specific Enforcement. In addition to such other rights as are specifically granted under the Declaration, the Board shall have the power to impose fines, which shall constitute a lien upon the Unit of the violator, and to suspend an Owner's right to vote or any person's right to use the Common Area for violation of any duty imposed under the Declaration and these Bylaws; provided, however, nothing herein shall authorize the Board to limit ingress and egress to or from a Unit or to suspend an Owner's right to vote due to nonpayment of Assessments. In addition, the Board may suspend any services provided by the Association to an Owner or the Owner's Unit if the Owner is more than thirty (30) days delinquent in paying any Assessment or other charges owed to the Association. In the event that any resident, guest or invitee of a Unit violates the Declaration or these Bylaws and a fine is imposed, the fine shall first be assessed against the resident. The failure of the Board to enforce any provision of the Declaration or these Bylaws shall not be deemed a waiver of the right of the Board to do so thereafter.

Section 5.5 Notice. Prior to imposition of any sanction hereunder or under the Declaration, the Board or its delegate shall serve the alleged violator with written notice describing (i) the nature of the alleged violation, (ii) the proposed sanction to be imposed, (iii) a period of not less than ten (10) days within which the alleged violator may present a written request for a hearing to the Board; and (iv) a statement that the proposed sanction shall be imposed as contained in the notice unless a challenge is begun within ten (10) days of the notice. If a timely challenge is not made, the sanction stated in the notice shall be imposed; provided the Board may, but shall not be obligated to, suspend any proposed sanction if the violation is cured within the ten (10) day period. Such suspension shall not constitute a waiver of the right to sanction future violations of the same or other provisions and Association Rules by any Person.

Section 5.6 Hearing. If a hearing is requested within the allotted ten (10) day period, the hearing shall be held before the Board in executive session. The alleged violator shall be afforded a reasonable opportunity to be heard. Prior to the effectiveness of any sanction hereunder, a proof of proper notice shall be placed in the minutes of the meeting. Such proof shall be deemed adequate if a copy of the notice, together with a statement of the date and manner of delivery, is entered by the officer, director, or agent who delivered such notice. The notice requirement shall be deemed satisfied if the alleged violator appears at the meeting. The minutes of the meeting shall contain a written statement of the results of the hearing and the sanction, if any, imposed.

Section 5.7 Appeal. If the hearing is conducted by a committee established by the Board, the violator shall have the right to appeal the decision to the Board. To perfect this right, a written notice of appeal must be received by the manager, President, or Secretary of the Association within ten (10) days after the committee hearing date.

Section 5.8 Additional Enforcement Rights. Notwithstanding anything to the contrary in this Article V, the Board may elect to enforce any provision of the Declaration and these Bylaws by self-help (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules and regulations) or by suit at law or in equity to enjoin any violation or

to recover monetary damages or both without the necessity of compliance with the procedure set forth above. In any such action, to the maximum extent permissible, the Owner responsible for the violation of which abatement is sought shall pay all costs, including reasonable attorneys' fees actually incurred.

ARTICLE VI INDEMNIFICATION

Section 6.1 Actions by or in the Right of the Association. The Association shall indemnify any Person who was or is a party, or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Association) by reason of the fact that he or she is or was a director or officer of the Association, who is or was serving at the request of the Association in such capacity, against expenses (including expert witness fees, attorneys' fees and costs) judgments, fines, amounts paid in settlement actually and reasonably incurred by him or her in connection with such action, suit or proceeding, if he or she acted in good faith and in a manner which such individual reasonably believed to be in the best interests of the Association, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his or her conduct was unlawful. Determination of any action, suit or proceeding by judgment, order, settlement or conviction, or upon a plea of nolo contendere or its equivalent, shall not of itself create a presumption that the person did not act in good faith and in a manner he or she reasonably believed to be in the best interests of the Association and, with respect to any criminal action or proceeding, had reasonable cause to believe his or her conduct was unlawful. No indemnification shall be made in respect of any claim, issue or matter as to which such person has been adjudged to be liable for negligence or misconduct in the performance of his or her duty in the Association unless, and to the extent that the court in which such action or suit was brought determines upon application that, despite the adjudication of liability, but in view of all circumstances of the case, such person is fairly and reasonably entitled to indemnification for such expenses if such court deems proper.

Section 6.2 Successful on the Merits. To the extent that a director, manager, officer, employee, fiduciary or agent of the Association has been wholly successful on the merits in defense of any action, suit or proceeding referred to in Section 6.1 above, or in defense of any claim, issue or matter therein, such person shall be indemnified against expenses (including expert witness fees, attorneys' fees and costs) actually and reasonably incurred by him or her in connection therewith.

Section 6.3 Determination Required. Any indemnification under Section 6.1 (unless ordered by a court) and as distinguished from Section 6.2, shall be made by the Association only as authorized by the specific case upon a determination that indemnification of the director or officer is proper in the circumstances because such individual has met the applicable standard of conduct set forth in Section 6.1 above. Such determination shall be made by the Board by majority vote of a quorum consisting of those directors who were not parties to such action, suit or proceeding or, if a majority of disinterested directors so commands, by independent legal counsel and a written opinion or by Association Members entitled to vote thereon.

Section 6.4 Payment in Advance of Final Disposition. The Association shall pay for or reimburse the reasonable expenses incurred by a former or current director or officer who is a party to a proceeding in advance of final disposition of the proceeding if the director or officer furnishes to the Association a written affirmation of the director's good faith belief that he or she has met the standard of conduct described in Section 6.1, the director or officer furnishes to the Association a written understanding, executed personally or on the director's or officer's behalf to repay the advance if it is ultimately determined that the director or officer did not meet the standard of conduct and a determination is made that the facts then known to those making the determination would not preclude indemnification under this Article VI. The undertaking required in this Section 6.4 shall be an unlimited general obligation of the director or officer but need not be selected and may be accepted without reference to financial ability to make repayment.

Section 6.5 No Limitation of Rights. The indemnification provided by this Article VI shall not be deemed exclusive of nor a limitation upon any other rights to which those indemnified may be entitled under any bylaw, agreement, vote of the Association Members or disinterested directors, or otherwise, nor by any rights which are granted pursuant to the Act.

Section 6.6 Directors and Officers Insurance. The Association shall purchase and maintain insurance on behalf of any person who is or was a director or an officer of the Association against any liability asserted against him or her and incurred by such individual in any such capacity or arising out of his or her status as such, whether or not the Association would have the power to indemnify such individual against such liability under provisions of this Article VI. The directors and officers of the Association shall have the liabilities, and be entitled to indemnification, as provided in the Act.

ARTICLE VII RECORDS

Section 7.1 Records and Audits. The Association shall maintain financial records, and such other records as required by the Declaration or the Act. The cost of any audit shall be a Common Expense unless otherwise provided in the Declaration.

Section 7.2 Examination. The Board shall establish reasonable rules with respect to:

7.2.1 Notice to be given to the custodian of the records by the Association Member or director desiring to make the inspection;

7.2.2 Hours and days of the week when such an inspection may be made; and

7.2.3 Payment of the cost of reproducing copies of documents requested by an Association Member or director.

Section 7.3 Records. The books and accounts for the Association shall be kept in accordance with generally accepted accounting principles under the direction of the Treasurer. At the close of each fiscal year, the books and records of the Association shall be prepared by an independent public accountant approved by the Association, and financial statements shall be prepared by said accountant and distributed to all Association Members.

**ARTICLE VIII
ASSESSMENTS**

All Assessments shall be made in accordance with the general provisions of the Declaration. The Treasurer shall keep detailed records of all receipts and expenditures specifying and itemizing the maintenance, repair and replacement expenses of the Association. Such records shall be available for examination by the Owners during regular business hours. In accordance with the actions of the Board in assessing Common Expenses against the Units and Owners, the Treasurer shall keep an accurate record of such Assessments and of the payments thereof by each Owner.

**ARTICLE IX
AMENDMENT TO BYLAWS**

Section 9.1 By Declarant. Prior to the conveyance of the first Unit by Declarant to any person, the Declarant may unilaterally amend these Bylaws. After such conveyance, and notwithstanding anything contained in these Bylaws to the contrary, these Bylaws may be amended unilaterally at any time and from time to time by Declarant (a) if such amendment is necessary to bring any provision hereof into compliance with any applicable governmental statute, rule or regulation, or judicial determination which shall be in conflict therewith, to make technical corrections, to fix mistakes or remove/clarify ambiguities; or (b) if such amendment is reasonably necessary to enable any reputable title insurance company to issue title insurance coverage with respect to the Units subject to the Declaration; provided, however, any such amendment shall not adversely affect the title to any Owner's property unless any such Owner shall consent thereto in writing. Further, so long as the Class B Association Memberships exist, Declarant may unilaterally amend these Bylaws for any other purpose; provided, however, any such amendment shall not materially adversely affect the substantive rights of any Owner hereunder, nor shall it adversely affect title to any property without the consent of the affected Owner.

Section 9.2 By Association Members Generally. Except as provided above, these Bylaws may be amended only by the affirmative vote or written consent, or any combination thereof, of Association Members representing sixty-seven percent (67%) of the total Class A Votes in the Association, and the consent of the Declarant, if such exists. In addition, the approval requirements set forth in the Declaration shall be met, if applicable. Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

**ARTICLE X
MISCELLANEOUS**

Section 10.1 Notices. Unless otherwise provided in these Bylaws, all notices demands, bills, statements, or other communications under these Bylaws shall be in writing and shall be deemed to have been duly given if delivered personally or if sent by (i) United States mail, first class postage prepaid, (ii) e-mail with confirmation of delivery, or (iii) facsimile transmission with confirmation of delivery:

10.1.1 If to an Association Member, at the mailing address, e-mail address or facsimile number which the Association Member has designated in writing and filed with the Secretary or, if no such mailing address, e-mail address or facsimile number has been designated, at the address of the Unit of such Association Member, or

10.1.2 If to the Association, the Board, or the manager, at the principal office of the Association or the manager, if any, or at such other mailing address, e-mail address or facsimile number as shall be designated by notice in writing to the Association Members pursuant to this Section 10.1.2.

Section 10.2 Conflicts. If there are conflicts between the provisions of Utah law, the Declaration, the Articles and these Bylaws, the provisions of Utah law, the Declaration, the Articles and these Bylaws (in that order) shall prevail.

Section 10.3 Waiver. No restriction, condition, obligation or provision contained in these Bylaws shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

Section 10.4 Severability. The provisions hereof shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any one provision or portion hereof shall not affect the validity or enforceability of any other provision hereof.

Section 10.5 Captions. The captions herein are inserted only as a matter of convenience and for reference and in no way to define, limit or describe the scope of these Bylaws nor the intent of any provision hereof.

Section 10.6 Effective Date. These Bylaws shall take effect upon Recording of the Declaration.

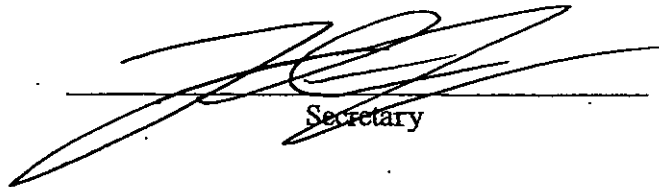
CERTIFICATION

I, the undersigned, do hereby certify:

That I am the duly elected and acting Secretary of The Cove at Jordan River Owners Association, Inc., a Utah nonprofit corporation;

That the foregoing Bylaws constitute the original Bylaws of said Association, as duly adopted at a meeting of the Board of Directors thereof held on the 8 day of Nov, 2007.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of said Association this 8 day of Nov, 2007.


Secretary

Certified to be the Bylaws adopted by the Board of The Cove at Jordan River Owners Association, Inc., a Utah nonprofit corporation, dated _____, 2007.

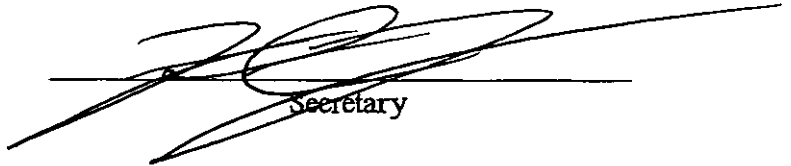

Secretary

EXHIBIT CAdditional Land

The Additional Land that may be added to this Project in accordance with the terms and provisions of this Declaration is located in Utah County, Utah, and is more fully described as follows:

PART OF SECTION 14, TOWNSHIP 5 SOUTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTH QUARTER CORNER OF SECTION 14, TOWNSHIP 5 SOUTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN. RUNNING THENCE NORTH 00°36'52" EAST (NORTH, BY RECORD) ALONG THE EAST RIGHT OF WAY LINE OF REDWOOD ROAD, 2625.10 FEET; THENCE EAST 65.49 FEET (94.55 BY RECORD) TO THE TRUE POINT OF BEGINNING.

THENCE NORTH, 27.99 FEET; THENCE NORTH 89°50'01" EAST ALONG AN EXISTING FENCELINE, 1285.47 FEET; THENCE ALONG FENCELINE AND RUNNING NORTH 00°09'32" EAST, 805.53 FEET (805.875, B.R.) TO AN EXISTING FENCE CORNER; THENCE NORTH 89°59'06" EAST (EAST, BY RECORD) ALONG AN EXISTING FENCELINE, 1226.98 FEET; THENCE LEAVING THE FENCELINE AND RUNNING SOUTH 58°00'00" EAST, 208.59 FEET TO A POINT ON THE WEST BANK OF THE JORDAN RIVER;

THENCE FOLLOWING THE SAID BANK IN A SOUTHWESTERLY DIRECTION IN THE FOLLOWING 8 COURSES:

1. SOUTH 62°55'04" WEST, 37.99 FEET;
2. SOUTH 46°07'23" WEST, 89.49 FEET;
3. SOUTH 41°05'35" WEST, 158.14 FEET;
4. SOUTH 29°20'24" WEST, 150.16 FEET;
5. SOUTH 32°59'19" WEST, 74.40 FEET;
6. SOUTH 45°09'00" WEST, 125.01 FEET;
7. SOUTH 39°58'43" WEST, 233.20 FEET;
8. SOUTH 52°45'07" WEST, 91.02 FEET;

THENCE SOUTH 89°16'40" WEST, 750.97 FEET (S89°16'08"W, 844.86' BY RECORD); THENCE SOUTH 89°50'01" WEST ALONG AN EXISTING FENCELINE, 1313.39 FEET TO THE POINT OF BEGINNING. CONTAINING 22.18 ACRES MORE OR LESS.

LESS AND EXCEPTING THE REAL PROPERTY DESCRIBED IN SECTION 3.1 OF THIS DECLARATION.

SUBJECT TO A 28.00 FOOT EMERGENCY ACCESS RIGHT-OF-WAY:

PART OF SECTION 14, TOWNSHIP 5 SOUTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN, WITH CENTERLINE DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTH QUARTER CORNER OF SECTION 14, TOWNSHIP 5 SOUTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN AND RUNNING THENCE NORTH $00^{\circ}37'36''$ EAST (NORTH, BY RECORD) ALONG THE EAST RIGHT OF WAY LINE OF REDWOOD ROAD, 2625.10 FEET; THENCE EAST 94.22 FEET TO THE TRUE POINT OF BEGINNING.

THENCE NORTH $89^{\circ}50'01''$ EAST ALONG A LINE 14.0 FEET SOUTH OF AN EXISTING FENCE LINE, 1299.43 FEET; THENCE NORTH $00^{\circ}09'32''$ EAST, 380.73 FEET.

SURVEY NARRATIVE

1. BASIS OF BEARING FOR THIS SURVEY IS NORTH $89^{\circ}51'14''$ EAST ALONG THE NORTH SECTION LINE FROM THE NORTHEAST CORNER TO THE WITNESS CORNER AT NORTH $89^{\circ}38'31''$ EAST, 105 FEET FROM THE NORTH QUARTER CORNER.

2. PURPOSE FOR THIS SURVEY IS TO RETRACE THE BOUNDARIES FOR THE PROPERTY RECORDED AT BOOK 58, PAGE 32, LOT 1048-04 IN THE OFFICE OF THE UTAH COUNTY RECORDER.

3. RETRACEMENT: NORTH LINES BY FENCE AND LINE BY RIVER BANK, SOUTHWESTERN LINE BY BANK OF THE JORDAN RIVER, SOUTH LINES BY RECORD. WEST LINE BY EXISTING FENCE, EAST AND WEST RECORD TIE ADJUSTED TO ALLOW RECORD DIMENSIONS TO FALL ON FENCE AND RIVER BANK.