

58  
K-4

WHEN RECORDED, RETURN TO:

**F1 Property Management**  
491 E Riverside Drive, 1B  
St. George, UT 84790

**DOC # 20120000694**

Amended Restrictive Covenants Page 1 of 58  
Russell Shirts Washington County Recorder  
01/09/2012 12:45:47 PM Fee \$ 128.00  
By F1 PROPERTY



---

AMENDED AND RESTATED DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
WILLOW RUN HOMEOWNERS ASSOCIATION  
(Including Bylaws)

TABLE OF CONTENTS

RECITALS.....	3
ARTICLE I - DEFINITIONS .....	4
ARTICLE II - PROPERTY DESCRIPTION.....	7
ARTICLE III - PROPERTY RIGHTS / EASEMENTS.....	9
ARTICLE IV - ASSESSMENTS AND BUDGETS.....	10
ARTICLE V - RESTRICTIONS ON USE .....	17
ARTICLE VI - ASSOCIATION.....	21
ARTICLE VII - PARTY WALLS .....	24
ARTICLE VIII - MAINTENANCE OBLIGATIONS .....	25
ARTICLE IX - COMPLIANCE AND ENFORCEMENT .....	26
ARTICLE X - INSURANCE.....	27
ARTICLE XI - AMENDMENT AND DURATION .....	32
ARTICLE XII – MORTGAGEE RIGHTS .....	33
ARTICLE XIII - MISCELLANEOUS PROVISIONS.....	35
EXHIBIT A - LEGAL DESCRIPTION.....	38
EXHIBIT B - UNIT NUMBERS, SQUARE FOOTAGE, UNDIVIDED INTERESTS .....	40
EXHIBIT C - BYLAWS .....	41

THIS AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS (hereafter "Declaration") is made on the date evidenced below by the Willow Run Homeowners Association.

### RECITALS

A. The developer developed the land in phases, as a residential community (including both townhome style lots and condominium units), and to insure a uniform plan and scheme of development.

B. The Condominium Property Units as described herein are hereby subjected to the Utah Condominium Ownership Act ' 57-8-1, et seq., as may be amended from time to time. The Townhome Property Units and Lots are hereby subjected to the Utah Association Ownership Act ' 57-8a-101, et seq., as may be amended from time to time.

C. A single homeowners association shall manage the affairs of both the Condominium Property and the Townhome Property.

D. For simplicity purposes with respect to the maintenance and insurance responsibilities for the structures built on Lots in the Townhome Property or developed as Condominiums in the Condominium Property shall both be collectively known as "Units" as defined herein, the maintenance obligations for such shall be set forth more fully below.

E. The Association has adopted, imposed and subjected the property hereinafter described to certain covenants, conditions, restrictions, easements, charges and liens (collectively, the "Covenants"), as set forth herein for the following purposes:

(1) To memorialize the manner in which the Association was intended to operate and has operated since its inception.

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

(3) To provide for the benefit of the Owners, the preservation of the value and amenities in the Community, and the maintenance of certain reserved open spaces and common areas, including but not limited to easements, charges and liens, herein below set forth, and for the creation of an association to be delegated and assigned the powers of maintaining and administering the Common Area (as hereinafter defined), and enforcing all applicable covenants and restrictions, and collecting and disbursing the assessments and charges hereinafter created upon the Property designated by this Declaration; which association shall be incorporated under the laws of the State of Utah, as a nonprofit corporation, for the purpose of exercising the functions mentioned herein.

NOW, THEREFORE, the Association does hereby declare as follows:

## ARTICLE I - DEFINITIONS

The following words when used in this Declaration (unless the context otherwise requires) shall have the following meanings:

**1.1** *“Act”* means the Utah Condominium Ownership Act (Section 57-8-1 et seq., Utah Code Annotated, 1953), as the same may be amended from time to time.

**1.2** *“Assessment”* means any charge imposed or levied by the Association on or against an Owner or Unit pursuant to the terms of this Declaration, the Bylaws or applicable law, including (1) annual/regular assessments; (2) special assessments; (3) emergency; and/or (4) individual assessments as set forth below.

**1.3** *“Association”* means and refers to the Willow Run Homeowners Association.

**1.4** *“Bylaws”* means the Bylaws of the Association and recorded simultaneously with this Declaration, as they may be amended from time to time and attached hereto as **Exhibit “C.”**

**1.5** *“Board of Directors”* shall mean and refer to the Board of Directors of the Association vested with the authority to manage the Community and to enforce this Declaration, Bylaws and the Rules and Regulations. The term Board of Directors is synonymous and interchangeable with the term “Management Committee” or “Board of Directors” as those terms may be used in the governing documents of the Association, the Utah Nonprofit Corporation Act, or in other relevant documents.

**1.6** *“Common Area”* means, refers to, and includes: (a) The real property within the Condominium Property, excluding all Units as defined herein, and interests in the real property which this Declaration submits to the terms of the Act; (b) The real property, excluding all Units as defined herein, and interests which comprise Phases I, II (as amended), III, and IV (as amended); (c) The real property within the Townhome Property, excluding all Units and/or Lots as defined herein, and interests in the real property; (d) The real property, excluding all Units as defined herein, and interests which comprises Phase V; (e) All common areas and facilities designated as such on the Plat Maps for Willow Run Homeowners Association; (f) All Limited Common Areas and facilities; (g) All foundations, roofs, columns, girders, beams, supports party walls, and perimeter walls constituting a portion of or included in the improvements which comprise a part of the Project; (h) All installations for and all equipment connected with the furnishing of the project’s utility services, such as electricity, gas, water and sewer; (i) In general, all apparatus, installations and facilities included within the Project and existing for common use; (j) The Project’s outdoor lighting, fences, landscape, sidewalks, parking spaces, and roads (unless the parking spaces and/or roads have been dedicated to the public); (k) All portions of the Project not specifically included within an individual Unit and/or Lot; (l) All other parts of the project normally in common use or necessary or convenient to its use, existence, maintenance, safety or management; (m) All common areas as defined in the Act, whether or not enumerated herein.

**1.7** *“Common Expenses”* means and refers to all sums which are required by the Board of Directors to perform or exercise its functions, duties, or rights under the Act, this Declaration, the Bylaws and such rules and regulations as the Board of Directors may adopt from time to time.

**1.8 “Community”** means all of the land described in attached **Exhibit A**, including all property shown on Plats for Phase I, Phase II (as amended), Phase III, and Phase IV (as amended), and Phase V.

**1.9 “Community Wide Standard”** means the standard of conduct, maintenance, or other activity generally prevailing in the community, as set forth in this Declaration, the Bylaws and as defined by the Board of Directors from time to time.

**1.10 “Condominium Common Ownership Areas”** means all that part of the Condominium Property as shown on the Plat Maps for Phase I, Phase II (as amended), Phase III, and Phase IV (as amended) which are not included within the condominium Units, but includes but is not limited to all roadways, parking areas, and common sidewalks within the Condominium Property.

**1.11 “Condominium Property”** means the property shown on the Plat Maps for Phase I, Phase II (as amended), Phase III, and Phase IV (as amended).

**1.12 “Eligible Holder”** shall mean any holder, insurer, or guarantor of a first Mortgage who makes a written request to the Association to receive any of the notices provided to Eligible Holders under this Declaration. The written request shall state the name and address of the Eligible Holder and the Unit number to which the Eligible Holder’s mortgage interest applies.

**1.13 “Fines”** shall mean and refer to fines levied against a Unit Owner for violations of this Declaration, the Bylaws, or Rules and Regulations of the Association. Fines shall be enforced and collected consistent with Utah’s Condominium Ownership Act, or any amendments thereto, and may be collected as an unpaid assessment.

**1.14 “Improvements”** means every structure or improvement of any kind, including but not limited to landscaping, Units, decks, porches, awnings, fences, garages, carports, driveways, storage compartments or other products of construction efforts on or in respect to the Property (but does not include any exterior antenna or satellite dish, authorized in accordance with the Declaration).

**1.15 “Limited Common Areas”** means all of the real property identified as limited common area on the plat maps for Willow Run Homeowners Association and maintained pursuant to the terms of this Declaration. Limited Common Areas are Common Areas limited to the use of certain Units to the exclusion of other Unit Owners and consist of driveways, parking stalls, balconies, decks, and patios, as shown on the plat maps.

**1.16 “Lot” or “Lots”** shall mean a subdivided parcel, lot or plot of ground within the Townhome Property and as designated on the Plat Map for Phase V.

**1.17 “Manager” or “Managing Agent”** shall mean and refer to the person or entity retained by the Association to manage the Property according to the direction of the Board of Directors. It is not required by this Declaration that the Property be managed by a professional Manager, as set forth herein.

**1.18 “Mortgage”** means any mortgage or deed of trust encumbering any Unit or Lot and any other security interest existing by virtue of any other form of security instrument or arrangement, provided that such mortgage, deed of trust or other form of security instrument, and an instrument evidencing any such other form of security arrangement, has been recorded among the Recorder’s Office.

- 1.19** *“Mortgagee”* means the person or entity secured by a Mortgage.
- 1.20** *“Owner”* means the person, persons or other entity owning any Unit or Lot (including the holder of a vendee’s interest under a land sale contract, unless otherwise stated in the contract), but does not include a tenant or holder of a leasehold interest or person holding only a security interest in a Unit (including the holder of a vendor’s interest under a land sale contract, unless otherwise stated in the contract).
- 1.21** *“Party Walls”* means and refers to a common wall separating the Units. Party walls shall be considered Common Areas.
- 1.22** *“Percentage Interest”* means and refers to the percentage of undivided ownership interest of each Unit Owner within the Condominium Property in the Common Areas of the Condominium Property as set forth in **Exhibit B** attached hereto.
- 1.23** *“Plats” or “Plat Maps” or “Record of Survey Maps”* (these terms may be used interchangeably herein) means the Record of Survey Maps entitled as follows: Willow Run Resort, Phase I; Willow Run Resort Condominiums, Phase II Amended; Willow Run Resort Condominiums, Phase III; Willow Run Resort Condominiums, Phase IV Amended; and, Willow Run Resort Phase V, as all are recorded at the Recorder's Office of Washington County, State of Utah, and any plats recorded among the Recorder’s Office in substitution therefor or amendment thereof.
- 1.24** *“Property” or “Project”* means the Willow Run Homeowners Association, including all of the real property described in attached **Exhibit A** and all Units, Lots, and Common Areas.
- 1.25** *“Reserve Analysis”* means an analysis to determine: (a) the need for a reserve fund to accumulate money to cover the cost of repairing, replacing, and restoring Common Areas, or any other areas of responsibility the Association has under this Declaration, that have a useful life of three (3) years or more, but excluding any cost that can be reasonably funded from the Association’s annual budget or other funds; and, (b) the appropriate amount of any reserve fund.
- 1.26** *“Rules and Regulations”* means and refers to those rules and regulations adopted by the Board of Directors from time to time that are deemed necessary for the enjoyment of the Property and Community.
- 1.27** *“Single Family”* shall mean and refer to the definition of “family” as contained in the local County Code, as may be amended from time to time.
- 1.28** *“Townhome”* means any residence constructed upon a Lot within the Townhome Property.
- 1.29** *“Townhome Property”* consists of all property as shown on the Plat Map for Phase V.
- 1.30** *“Unit”* means and refers to a separate physical part of the Condominium Property intended for independent use and ownership, consisting of rooms and spaces located within a building structure. Units are shown on the appropriate Record of Survey Maps for Phase I, Phase II Amended, Phase III, and Phase IV Amended.

Mechanical equipment and appurtenances located within any one Unit or located outside of said Unit but designated and designed to serve only that specific Unit, such as appliances, electrical receptacles and outlets, air conditioning compressors and other air conditioning apparatus, fixes and

the like, shall be considered part of the Unit, as shall be all decorated interiors, all surfaces of interior structural walls, floors and ceilings, windows, and window frames, doors and door frames, and trim, consisting of, among other items and as appropriate, wallpaper, paint, flooring, carpeting and tile. All pipes, wires, conduits or other public utility lines or installations constituting part of the Unit and serving only a specific Unit, and any structural features or any other property of any kind, including fixtures and appliances within any Unit, which are removable without jeopardizing the soundness, safety, or usefulness of the remainder of the structure/building within which the Unit is situated shall be considered part of the Unit.

**For purposes of maintenance and insurance only**, as set forth more fully in Article VIII and Article X below, the definition of Unit shall also apply to structures within the Townhome Property as it is the intention of this Declaration to treat such structures, as closely as possible, as Condominium Units.

## **ARTICLE II - PROPERTY DESCRIPTION**

**2.1 Property Subject the Declaration and Bylaws.** All Condominium Property, as reflected in the Plat Maps for Phase I, Phase II (as amended), Phase III, and Phase IV (as amended) for Willow Run Homeowners Association, a Utah nonprofit corporation, is hereby submitted to Utah Code Ann. ' 57-8-1 et seq. (the Act), and any amendments thereto, with the rights, privileges and obligations of condominium ownership as set forth herein and in the Act.

All Townhome Property, as reflected in the Plat Map for Phase V for Willow Run Homeowners Association, a Utah nonprofit corporation, is hereby submitted to Utah Code Ann. ' 57-8a-1 et seq., and any amendments thereto, with the rights, privileges and obligations of condominium ownership as set forth herein and in the Act.

The real property which is, and shall be, transferred, held, sold, conveyed and occupied subject to this Declaration is located in Washington County, State of Utah, also known as the "Community," and is described on **Exhibit A** attached hereto, all of which real property is referred to herein as the "Property."

**2.2 Description of Improvements.** The significant improvements within the Condominium Property of Willow Run Homeowners Association include buildings containing up to twenty four (24) Units therein or as little as one (1) Unit or Townhome, also patios, sidewalks and/or walkways, club house, pool, tennis court, and parking stalls. Less significant improvements consist of outdoor lighting and landscaping. The appropriate Plat Maps indicate the number of Units which are contained in Willow Run Homeowners Association. There are eighteen (18) Units in Phase I located in buildings that are two (2) stories; twenty four (24) Units in Phase II (as amended) located in buildings that are two (2) stories; eleven (11) Units in Phase III; nineteen (19) Units in Phase IV (as amended); and, thirty-seven (37) Lots in Phase V. The buildings are composed mainly of the following materials: concrete foundations; stucco exteriors, wood frame with load and non-load bearing walls, tile roofs, and interior plywood and sheet rock walls.

**2.3 Description and Legal Status of Units and Lots.** The Plat Maps show the Unit, Lot, and Building designations, their locations, dimensions from which its areas may be determined, those Limited Common Areas which are reserved for such use, and the Common Areas to which it has immediate access. All Units and Lots are residential Units and Lots. All Units and Lots shall be capable of being independently owned, encumbered, and conveyed.

**2.4 Contents of Exhibit B.** Exhibit B to this Declaration furnishes the following information with respect to each Condominium Property Unit: (a) The Unit Designation and (b) The square footage of each Unit. Each Unit within the Condominium Property shall have an equal undivided interest in the Condominium Common Ownership Areas and facilities as shown on the Plat Maps for the Condominium Property.

**2.5 Ownership Interest in Condominium Common Ownership Areas.** Neither the percentage interest in the Condominium Common Ownership Areas for the condominium Unit Owners nor the right of exclusive use of the Limited Common Areas for all Unit owners shall be separated from the Unit to which it appertains; and even though not specifically mentioned in the instrument of transfer, the percentage interest for condominium Units and such right of exclusive use for all Units shall automatically accompany the transfer of the Unit to which they related.

**2.6 Computation of Percentage Interests.** As stated above, the proportionate share of the Condominium Property Unit Owners in the Condominium Common Ownership Areas shall be equal. For all purposes under this Declaration and Bylaws, however, each Unit, whether within the Condominium Property or the Townhome Property, shall have the same voting rights, pay an equal assessment (except for individual assessments defined below), and share equally in the common profits and expenses of the Association with all other Unit and Townhome Owners.

**2.7 Covenants Run with the Land.** All of the Property within the Association shall be owned, conveyed, hypothecated, encumbered, used, occupied and improved subject to this Declaration. The easements, covenants, conditions, restrictions and charges, described in this Declaration shall run with the Property and shall be binding upon all parties having or acquiring any right, title or interest in such Property or any part thereof and shall inure to the benefit of the Association, and each Owner thereof.

**2.8 Form of Condominium Unit Conveyance - Legal Description of Condominium Unit.** Each conveyance or installment contract for the sale of a condominium Unit and every other instrument affecting title to a condominium Unit may describe that Unit by the number shown on the Record of Survey Maps with appropriate reference to the respective said Map and to this Declaration, as each shall appear on the records of the County Recorder for Washington County, State of Utah, and in substantially the following form:

Unit \_\_\_ shown on the Record of Survey Maps for Willow Run Resort  
Condominiums, Phase \_\_\_\_, appearing in the records of the Washington  
County Recorder as Entry No. \_\_\_\_\_ Map No. \_\_\_\_, and as identified in  
the Declaration appearing as Entry No. \_\_\_ in Book \_\_\_\_\_ at Pages \_\_\_\_\_  
of the official records of the Washington County Recorder together with an



undivided interest in and to the Common Ownership Areas appertaining to said Unit as established in said Declaration, as may be amended, and the Maps. This conveyance is subject to the provisions of the aforementioned Declaration, including any amendments thereto.

**2.9 No Right of First Refusal** The rights of a Unit Owner to sell, transfer, or otherwise convey his or her Unit shall not be subject to any right of first refusal or similar restriction.

### ARTICLE III - PROPERTY RIGHTS / EASEMENTS

**3.1 Use and Occupancy.** Except as otherwise expressly provided in this Declaration or the Bylaws, the Owner(s) of a Unit shall be entitled to the exclusive use and benefits of ownership of such Unit and/or Lot. Each Unit and/or Lot, however, shall be bound by, and the Owner shall comply with, the restrictions contained below and all other provisions of this Declaration and the Bylaws for the mutual benefit of the Owners.

**3.2 Parking Rights.** Each condominium Unit within Phases I & II is assigned at least one (1) parking space. The right to use the parking space is assigned to each Unit as such spaces are numbered on the Plat Maps.

**3.3 Restriction on Unit Division.** All Owners are prohibited from dividing any and all Units subject to this Declaration unless expressly permitted, in writing, by the Board of Directors. However, Owners' ownership interests in the Condominium Common Ownership Areas may not be altered without the consent of sixty-seven percent (67%) of all Condominium Property Owners.

**3.4 Easements Reserved.** In addition to the easements shown on the Plat or provided for under this Declaration, the Bylaws or law, the following easements are hereby reserved for the benefit of the Owners and the Association:

(a) Right of Entry. The Association and any person authorized by the Association may at any reasonable time, and from time to time at reasonable intervals, enter upon any condominium Unit or townhome Lot for the purpose of performing maintenance referred to herein and determining whether or not such Unit and/or Lot is in compliance with this Declaration and Bylaws or whether the use of the Unit is causing damage or harm to the Common Areas or Limited Common Areas. Requests for entry shall be made in advance and at a time convenient to the Owner, except in the case of an emergency, when such right shall be immediate. No such entry shall be deemed to constitute a trespass or otherwise create any right of action in the Owner of such Unit.

(b) Utility Easements. The Association or any public utility provider shall have an easement through all condominium Units, Lots and the Common Areas for the installation, maintenance and development of utilities and drainage facilities, as may be necessary. The easement area within each Unit or Lot and all improvements therein shall be maintained continuously by the Owner of the Unit or Lot of the Association in accordance with the terms

herein, except for those improvements for which a public authority or utility provider is responsible. Each Unit Owner shall have an easement in common with all Owners to use all pipes, wires, ducts, cables, conduits, public utility lines and other common facilities located in any of the other Units and serving his or her Unit.

(c) Common Areas. All Owners, whether they own a Unit in the Condominium Property or a Townhome in the Townhome Property, are hereby granted a non-exclusive right and easement of enjoyment to the Common Areas, whether within the Condominium or Townhome Property.

**3.5 No Encroachment.** No Unit shall encroach upon an adjoining Unit without the express written consent of the Board of Directors. If, however, an encroachment occurs due to the settlement or shifting of a structure/building or any other reason whatsoever beyond the control of the Board of Directors or any Owner, there shall forthwith arise, without the necessity of any further or additional act or instrument, a good and valid easement for the maintenance of such encroachment, for the benefit of the Owner, its heirs, personal representatives and assigns, to provide for the encroachment and non disturbance of the Structure. Such easement shall remain in full force and effect so long as the encroachment shall continue.

#### **ARTICLE IV - ASSESSMENTS AND BUDGETS**

##### **4.1 Covenants for Assessments.**

(a) Each Owner, by acceptance of a deed conveying any such Unit and/or Lot to it, whether or not so expressed in the deed or other conveyance, shall be deemed to have covenanted and agreed to pay the Association the following types of assessments:

- (1) Annual assessments (the "Annual Assessment") as provided in Section 4.2 below.
- (2) Special assessments ("Special Assessments") as provided in Section 4.7 below.
- (3) Emergency assessments ("Emergency Assessments") as provided in 4.10 below.
- (4) Individual assessments ("Individual Assessments") as provided in Section 4.11 below.

(b) No member may exempt itself from liability for Assessments by abandonment of any Unit and/or Lot owned by such member.

**4.2 Annual Budget and Assessment.**

(a) Adoption of Budget.

(1) The Board of Directors shall prepare, or cause the preparation of, an annual budget for the Association, which shall provide, without limitation, for the maintenance of all areas of the Property with the exception of the Units (as defined in this Declaration), including all Common Areas, and for the administration, management and operation of the Association. If the Board of Directors fails to adopt an annual budget, the last adopted budget shall continue in effect.

(b) Determination of Annual Assessment.

(1) The Board of Directors of the Association shall fix the amount of the annual assessment ("Annual Assessment") against each Unit and Lot for each assessment period at least thirty (30) days in advance of the beginning of the period. Written notice of the Annual Assessments shall be sent to all members of the Association at least thirty (30) days in advance of the beginning of any assessment period, or thirty (30) days in advance of any increase in the Annual Assessment that is to take effect during any assessment period.

(2) The omission by the Board of Directors, before the expiration of any assessment period, to fix the amount of the Annual Assessment for that or the next period, shall not be deemed a waiver or modification in any respect of the provisions of this article or a release of any member from the obligation to pay the Annual Assessment, or any installment thereof, for that or any subsequent assessment period. In the event of such omission, the Annual Assessment fixed for the preceding period shall continue until a new assessment is fixed.

(3) The Annual Assessment may not be increased by more than five percent (5%) above the Annual Assessment for the previous year without a vote of the membership. The Association may increase the Annual Assessment above five percent (5%) of the previous year's Annual Assessment provided that any such change shall be approved by at least sixty-seven percent (67%) of those members of the Association, who actually cast votes through the voting procedure authorized by the Board for that particular action (e.g., at a meeting, through mail-in ballot, or a meeting in conjunction with the use of mail-in ballots).

**4.3 Apportionment of Assessments.** Assessments shall be apportioned as follows:

(a) Annual, Special and Emergency Assessments. All Units and Lots shall pay a pro rata share of the Annual Assessment, Special Assessments and Emergency Assessments. The pro rata share shall be based upon the total amount of each such assessment divided by the total number of Units and Lots, i.e. the total assessment divided by the number of Units and Lots combined.

(b) Individual Assessments. Individual Assessments shall be apportioned exclusively against the Units and/or Lots benefitted or to which the expenses are attributable as provided for below.

(c) Payment of Assessments. Installments of Annual Assessments shall be levied and collected on a monthly basis. However, upon resolution of the Board of Directors, installments of

Annual Assessments may be levied and collected on a quarterly, semi-annual or annual basis. Any member may prepay one or more installments of any Assessment levied by the Association, without premium or penalty.

**4.4 Lien.** The Annual Assessment and all other Assessments imposed shall be a charge and continuing lien upon each of the Units and/or Lots against which the assessment is made in accordance with the terms and provisions of this Article IV and shall be construed as a real covenant running with the land.

**4.5 Personal Obligation and Costs of Collection.** Assessments imposed under this Declaration, together with interest at a rate to be established by resolution of the Board of Directors, not to exceed the maximum permitted by law, and costs and reasonable attorneys' fees incurred or expended by the Association in the collection thereof (whether or not a lawsuit is initiated), shall also be the personal obligation of the Owner holding title to any Unit and/or Lot at the time when the assessment became due.

**4.6 Purpose of Assessments.** The Assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety, and welfare of the residents of the Community, and including, but not limited to: (a) The improvement and maintenance, operation, care, and services related to the Common Areas; (b) The payment of insurance premiums; (c) The costs of utilities and other services which may be provided by the Association for the Community; (d) The cost of labor, equipment, insurance, materials, management, legal and administrative fees incurred or expended in performing the duties under this Declaration or the Bylaws; (e) The cost of funding all reserves established by the Association; and (f) Any other items properly chargeable as a Common Expense of the Association.

**4.7 Special Assessments.** In addition to the Annual Assessments authorized in this article, the Association may levy special assessments ("Special Assessments") for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of Common Areas. A Special Assessment may be paid over time, as established by the Board, but once a specific Special Assessment is levied in a given year, that same Special Assessment cannot be automatically re-levied year after year. In any given year, Special Assessments must be authorized in that specific year but payable as approved by the Board. The Board of Directors may authorize a special assessment for any lawful purpose in any given calendar year provided, however, that such assessment shall first be approved by sixty-seven percent (67%) of those members of the Association, who actually cast votes through the voting procedure authorized by the Board for that particular action (e.g., at a meeting, through mail-in ballot, or a meeting in conjunction with the use of mail-in ballots).

**4.8 Notice and Quorum for any Action Authorized Under Section 4.7 and 4.10.** Written notice of any meetings of members of the Association called for the purpose of taking any action authorized under Sections 4.7 and 4.10 of this Article IV shall be sent to all members not less than twenty (20) days, or more than sixty (60) days, in advance of the meeting. At the first such meeting or voting procedure, the presence at a meeting in person, proxy, or mail-in ballot of thirty percent (30%) of Owners shall constitute a quorum of the Association; provided however, that if a quorum is not present at a meeting duly called, the Board shall have the right to continue said meeting to a date

not more than sixty (60) days after the date of scheduled meeting. At such rescheduled meeting, those Owners entitled to vote who are present in person, by proxy or mail-in ballot shall constitute a quorum for all purposes.

**4.9 Due Date of Assessments.** The Annual Assessments shall be due and payable on a monthly basis on the first (1st) calendar day of each month, unless otherwise provided by resolution of the Board of Directors, and shall be delinquent if not paid within twenty (20) days after the due date. The due date of any Special Assessment, Emergency Assessment or other Assessment shall be fixed in the resolution authorizing the Assessment.

**4.10 Emergency Assessments.**

(a) If the Annual Assessments levied at any time are, or will become, inadequate to meet all expenses incurred under this Declaration for any reason, including nonpayment of any Owner's Assessments on a current basis, the Board of Directors shall, as soon as practicable, determine the approximate amount of the inadequacy and adopt a resolution which establishes a supplemental budget and levies the additional assessment ("Emergency Assessment"). The resolution shall specify the reason for the Emergency Assessment.

(b) Any Emergency Assessment in the aggregate in any fiscal year that would exceed an amount equal to ten percent (10%) of the budgeted expenses of the Association for the fiscal year may be levied only if approved by not less than sixty-seven percent (67%) of those members of the Association, who actually cast votes through the voting procedure authorized by the Board for that particular action (e.g., at a meeting, through mail-in ballot, or a meeting in conjunction with the use of mail-in ballots).

**4.11 Individual Assessments.** Any expenses benefitting or attributable to fewer than all of the Units and Lots may be assessed exclusively against the Units and/or Lots affected or benefitted. Individual Assessments shall include, but are not limited to: (1) Assessments levied against any Unit and/or Lot to reimburse the Association for costs incurred in bringing the Unit and/or Lot or its Owner into compliance with the provisions of this Declaration or rules and regulations of the Association and for fines or other charges imposed pursuant to this Declaration for violation of this Declaration, the Bylaws or any rules and regulations of the Association; (2) Expenses relating to the cost of maintenance, repair replacement and reserves of the Units.

**4.12 Nonpayment of Assessments.** Assessments shall be due on the first (1<sup>st</sup>) day of the month. The assessment due date may be changed by resolution of the Board of Directors. Any assessment or portion thereof not paid within twenty (20) days after the due date, i.e., by the twentieth (20<sup>th</sup>) day of the month shall be deemed delinquent.

4.12.1 Interest. Delinquent payments shall bear interest from the twenty-first (21<sup>st</sup>) day of the month (the "date of delinquency") at the rate established by resolution of the Board of Directors, not to exceed the maximum rate permitted by law; and

4.12.2 Late Charge. Delinquent payments shall be subject to a late charge of twenty-five dollars (\$25.00) per month until paid, or ten percent (10%) of the assessment, whichever is greater; such late charge may be decreased or increased by resolution of the Board of Directors.

4.12.3 Acceleration. If the delinquent installments of Annual Assessments and any charges thereon are not paid in full, the Board, or its authorized agent, may declare all of the unpaid balance of the Annual Assessment to be immediately due and payable upon not less than ten (10) days' written notice to the Owner, and may enforce the collection of the full Annual Assessment and all charges thereon in any manner authorized by law and this Declaration. If, however, the Common Assessment is accelerated and an Owner subsequently files bankruptcy or the Board otherwise decides acceleration is not in its best interest, the Board, at its option and in its sole discretion, may elect to decelerate the obligation.

4.12.4 Future Lease Payments. If the Owner of a Unit or Lot who is leasing the Unit or Lot fails to pay an Assessment for more than 60 days after the Assessment is due, the Board of Directors, upon compliance with this section, may demand that the tenant pay to the Association all future lease payments due to the Owner, beginning with the next monthly or other periodic payment, until the amount due to the Association is paid.

(a) Notice to the Owner. The manager or Board of Directors shall give the Owner written notice of its intent to demand full payment from the tenant under this section. The notice shall: (1) provide notice to the tenant that full payment of the remaining lease payments, beginning with the next monthly or other periodic payment unless the assessment is received within fifteen (15) days, must be paid directly to the Association at the following address: (address to which payment should be mailed, payment must go to the attorney if the account has been turned over for collection); (2) state the amount of the Assessment due, including any interest or late payment fee; and (3) state that any costs of collection, and other Assessments that become due, may be added to the total amount due.

(b) Notice to the Tenant. If the Owner fails to pay the Assessment due by the date specified in the notice described in Subsection (a), the manager or Board of Directors may deliver written notice to the tenant that demands future payments due to the Owner be paid to the Association pursuant to Subsection (c).

(1) The manager or Board of Directors shall mail a copy of the notice described in this Subsection (b) to the Owner.

(2) Content of Notice. The notice provided to the tenant under this Subsection (b) shall state: (i) that due to the Owner's failure to pay the Assessment within the time period allowed, the Owner has been notified of the intent of the Board of Directors to collect all lease payments due to the Association; (ii) that until notification by the Association that the Assessment due, including any interest, collection cost, or late payment fee, has been paid, the tenant shall pay to the Association all future lease payments due to the Owner; and (iii) that payment by the tenant to the Association in compliance with this Section will not constitute a default under the terms of the lease agreement.

(3) If a tenant makes payments in compliance with this Section, the Owner may not initiate an action against the tenant.

(c) All funds paid to the Association pursuant to this section shall be deposited in a separate account and disbursed to the Association until the Assessment due is paid in full. Any remaining balance shall be paid to the Owner within five (5) business days after payment in full to the Association.

(d) Within five (5) business days after payment in full of the Assessment, including any interest, late payment fee, and costs of collection, the manager or Board of Directors shall notify the tenant in writing that future lease payments are no longer due to the Association. The Association shall mail a copy of the notification to the Owner.

**4.12.5 Termination of Common Utility Service and Facility Use.**

(a) If an Owner fails or refuses to pay an Assessment when due, the Board of Directors may, after giving notice and an opportunity to be heard in accordance with Subsection (b), terminate an Owner's right: (1) to receive any utility services paid as a common expense; and (2) of access and use of recreational facilities.

(b) **Notice to Owner.** Before terminating utility services or the right of access and use of the recreational facilities, the Board or its agent shall give written notice to the Owner. The notice shall state: (1) utility service or the right of access and use of the recreational facilities will be terminated if payment of the Assessment is not received within forty-eight (48) hours; (2) the amount of the Assessment due, including any late fees, interest, and costs of collection; and (3) that the Owner has a right to request a hearing by submitting a written request to the Board of Directors within fourteen (14) days from the date the notice is received.

(c) If a hearing is requested, utility services or right of access and use of the recreational facilities may not be terminated until after the hearing has been conducted and a final decision has been entered. In the event that the Association incurs costs to terminate any such utility service, the defaulting Owner shall be responsible for all such costs. Upon payment of the Assessment due, including any interest, late charge, and costs of collection, the Board shall immediately take action to reinstate the terminated utility services to the Unit.

**4.13 *Subordination of Lien to Mortgages.*** The lien of the Assessments provided for in this article shall be subordinate to the lien of any first mortgagees or deeds of trust now or hereafter placed upon the Unit subject to Assessment, except as follows: the sale or transfer of any Unit and/or Lot pursuant to mortgage or deed of trust foreclosure, or any proceeding in lieu thereof, shall extinguish the lien of such Assessments as to payments which became due prior to such sale or transfer. Such sale or transfer shall not relieve the Unit and/or Lot from liability for any Assessments thereafter becoming due, or from the lien of any future assessment.

**4.14 *Enforcement of Lien.*** The Association may establish and enforce the lien for any Assessment, including Annual, Special, Individual or otherwise, pursuant to the provisions of this Declaration. The lien is imposed upon the Unit and/or Lot against which the Assessment is made. The lien may be established and enforced for damages, interest, costs of collection, late charges

permitted by law, and attorneys' fees provided for in this Declaration (whether or not a legal proceeding is initiated) or by law or awarded by a court for breach of any provisions of this Declaration, the Bylaws or any rules and regulations of the Association. The lien maybe foreclosed judicially or non-judicially consistent with the laws of the State of Utah for the non-judicial foreclosure of Deeds of Trusts. In such an event, the Owner hereby irrevocably appoints the Association, or its authorized agent, to act as Trustee for purposes of foreclosing any lien hereunder.

The Association, through duly authorized agents, shall have the power to bid on the Unit and/or Lot at foreclosure sale, and to acquire and hold, lease, mortgage and convey the same. Upon completion of the foreclosure sale, an action may be brought by the Association or the purchaser at the sale in order to secure occupancy of the defaulting Owner's Unit and/or Lot, and the defaulting Owner shall be required to pay the reasonable rental value of such Unit and/or Lot during any period of continued occupancy by the defaulting Owner or any persons claiming under the defaulting Owner. The Association shall be entitled to the appointment of a receiver to collect the rental income or the reasonable rental value without regard to the value of the security.

**4.15 Reserve Funds.**

(a) Pursuant to Utah Code Ann. §§57-8-7.5 and 57-8a-211, as may be amended from time to time, the Association shall cause a Reserve Analysis to be conducted no less frequently than every five (5) years and if no Reserve Analysis has been conducted since March 1, 2008, the Association shall cause a Reserve Analysis to be conducted before July 1, 2012. Furthermore, the Board of Directors shall review and, if necessary, update a previously conducted Reserve Analysis no less frequently than every two (2) years.

(b) The Board of Directors may conduct a Reserve Analysis itself or may engage a reliable person or organization, as determined in the sole discretion of the Board, to conduct such Reserve Analysis.

(c) The Association shall:

(1) At least annually, whether at the annual meeting or at a special meeting held for such purpose, present the current reserve study and provide an opportunity for Owners to discuss reserves and to vote on whether to fund a reserve and, if so, determine the amount and how to fund such reserves.

(2) The Board of Directors shall cause minutes of each meeting held pursuant to this section to be prepared and kept and shall indicate therein any decision made relating to the funding of reserves.

(d) The Board of Directors may not use reserve funds: (1) for general maintenance expenses, unless approved for such use by at least a majority of Owners; or, (2) for any purpose other than the purpose for which the reserve funds were established.

(e) The Board of Directors shall maintain a reserve fund separate from other funds of the Association.



(f) Any reserves shall be conclusively deemed a Common Expense of the Association and may be deposited with any banking institution, the accounts of which are insured by an agency of the United States of America or may, in the discretion of the Board of Directors, be invested in obligations of, or fully guaranteed as to principal by, the United States of America.

(g) The Association may establish such other reserves for such other purposes as the Owners may from time to time consider necessary or appropriate.

(h) The proportional interest of any member of the Association in any reserve fund established under this section shall be considered an appurtenance of such Owner's Unit and/or Lot and shall not be separated from the Unit or Lot to which it appertains and shall be deemed to be transferred with the Unit or Lot.

**4.16 Certificate of Assessment.** The Association shall, upon demand at any time, furnish to any Owner liable for assessment a certificate in writing signed by an officer of the Association setting forth whether Assessments has been paid. The certificate shall be conclusive evidence of payment of any assessment therein stated as having been paid. A reasonable charge not to exceed fifty dollars (\$50.00), as determined by resolution of the Board of Directors, may be levied in advance by the Association for each certificate so delivered.

## ARTICLE V - RESTRICTIONS ON USE

**5.1 Restrictions and Requirements.** The following restrictions and requirements are in addition to all other restrictions and requirements contained in this Declaration and the Bylaws:

5.1.1 Residential Use. Units and Lots shall be used for residential purposes in accordance with, and subject to, the other provisions of this Declaration and the Bylaws and rules and regulations adopted pursuant thereto. Except as provided in this subsection, no trade, craft, business, profession, commercial or similar activities that causes additional pedestrian or vehicular traffic, creates a sight or noise nuisance, shall be conducted on any Unit, Lot, or in any other portion of the Project.

5.1.2 Drainage System. There shall be no interference with the established drainage patterns or systems, if any, over or through any Unit or Lot so as to affect any other Unit, Lot or any real property outside the Property unless adequate alternative provision is made for proper drainage and is approved by the Board of Directors.

5.1.3 Offensive Activities. No noxious, offensive or unsightly conditions, including, but not limited to, the placement or storage of inoperable vehicles, car parts and appliances, or activities shall be permitted on any Unit, Lot or other portion of the Property, including the Common Areas and Limited Common Areas, nor shall anything be done in or placed upon any Common Area or Limited Common Area which interferes with or jeopardizes the enjoyment of other Units and/or Lots or which is a source of annoyance to residents.

5.1.4 Unlawful Activities. No unlawful use shall be made of the Property or any part thereof, and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereof shall be observed.

5.1.5 Animals.

(1) The Board of Directors shall have the express authority and right to promulgate rules, beyond those stated herein, restricting the keeping of pets.

(2) No animals, livestock, or poultry of any kind may be raised, bred, kept or permitted within any Unit or on any Lot, except dogs, cats, or other household pets provided that they are not kept, bred, or maintained for any commercial purpose or in any unreasonable numbers. The Owner of any dog must keep such dog on a leash when outside of the Unit or keep it confined within the Unit.

(3) Those animals which are permitted shall not cause any noise or disturbance that would be deemed a nuisance to other Owners or residents within the Community. Any inconvenience, damage or unpleasantness caused by such pets shall be the responsibility of the respective Owners thereof and Owners shall be responsible for removal of wastes of their animals from the Common Areas and Limited Common Areas.

(4) An Owner may be required to remove a pet upon receipt of a written notice from the Board of Directors given pursuant to a resolution relating to rules and regulations governing pets within the Community and enforcement of such rules and regulations and provisions of this subsection. The Board of Directors may apply for appropriate judicial relief in the event that Owners violate this Article.

5.1.6 Rubbish and Trash. No part of the Property may be used or maintained as a dumping ground for rubbish, trash, garbage, or any other waste. No garbage, trash, or other waste may be kept or maintained on any part of the Property except in a sanitary container as specified by the Association or within a trash enclosure screened from public view. All such waste and garbage must be promptly and periodically removed. All dumpsters located on the Property, specifically dumpsters for Buildings A and J, are for typical trash and refuse only and all trash must fit within the dumpster. No furniture, appliances, construction materials, or the like, shall be deposited or left in or near any dumpsters.

5.1.7 Vehicles in Disrepair.

(1) No Owner shall permit any vehicle which is in an extreme state of disrepair to be abandoned or to remain parked upon any part of the Property unless such vehicle is within a garage. A vehicle shall be deemed in an "extreme state of disrepair" when the Board of Directors reasonably determines that its presence offends the occupants of the other Units. The Board may further limit keeping of vehicles within the Association by rule or regulation.

(2) If an Owner fails to remove a vehicle deemed to be in an extreme state of disrepair within seventy-two (72) hours after the date and time on which written notice is securely placed on such vehicle or delivered to the responsible Owner by the Board of Directors, the Board of Directors may have such vehicle removed from the Property (i.e. towed) and assess the Owner the expense of such removal and any storage necessitated thereby.

5.1.8 Recreational Vehicles.

(1) No boats, trailers, large trucks and commercial vehicles shall be parked within the Association, except in designated RV Parking Area and subject to any rules, regulations, or limitations placed on such parking by the Board of Directors.

(2) No motor vehicle of any kind shall be repaired, constructed or reconstructed upon the Common Areas or any Lot, unless contained within a garage, except that these restrictions shall not apply to emergency repairs to vehicles.

(3) The Board of Directors may adopt and amend rules to govern the enforcement of this Subsection which rules may include the authority to tow vehicles and assess the violating Owner the expense of removing any automobile, vehicle or equipment parked in violation of this Subsection and the cost of any storage thereof.

5.1.9 Clothes Lines and Materials. No clothes lines, clothing racks, or other apparatus on which clothes, rags, or similar items are exposed for the purpose of drying or airing shall be located on the Property except within a Unit, unless in an area screened from public view. No garments, towels, rugs, rags, laundry, or other clothing or materials shall be allowed to hang from the windows, balconies, patios, decks or from any of the facades or any other part of a Unit and/or Lot unless in an area screened from public view.

5.1.10 Signs. Unless written approval is first obtained from the Board of Directors, no advertisement or poster of any kind may be posted in or upon the Properties except:

(1) Not more than one (1) "For Sale" or "For Rent" sign, not exceeding twenty-four (24) inches in height and thirty-six (36) inches long, may be temporarily placed on a Unit by the Owner, resident or a licensed real estate agent; and

(2) "Political" signs may be temporarily placed on a Unit by the Owner or occupant of the Unit unless and until prohibited or otherwise limited by the Board of Directors by rule;

5.1.11 Antennas and Service Facilities. Owners are encouraged to use cable service for television and internet. Satellite dishes and antennas not regulated by the FCC are prohibited. Satellite antennas, such as Direct Broadcast Satellite ("DBS") antennas (dishes) one meter in diameter or less, and designed to receive direct broadcast satellite service, including direct-to-home satellite service, or receive or transmit fixed wireless signals via satellite, may be installed only to the extent and in locations allowed by local, state or federal law.

(1) Satellite dishes may only be installed inside the Owner's Unit and/or Townhouse or on any porch, patio, deck, balcony or other area over which the owner has exclusive use and control under the terms of this Declaration. No Owner may install a satellite dish on the exterior, roof, or restricted areas of any building, or in the common areas of the building or project, without prior approval from the Board of Directors. No satellite dish may extend beyond balcony railings. Owners need to be aware that their unit may not be in a proper location to receive satellite broadcast signals even if they install a satellite dish. Prior to installation, Owners should check with a qualified and reputable company to determine if they are able to receive adequate signals at their unit. Owners shall notify the Board in writing prior to any installation. Such notice shall include a description of the location for the satellite dish and the installation (attachment) method. No Owner may drill holes in walls, doors or window frames in order to install the satellite dish or run cable from the dish to the television. All installations must be performed in such a manner as not to cause legitimate safety concerns. These would include, but not be limited to, danger of falling, danger of permanent damage to the building or proximity to power lines.

(2) Owners are responsible for any injury or damage to persons or property caused by their satellite dish. Owners must purchase and maintain liability insurance for the use of a satellite dish, which insurance must name the Association as an additional insured. Owners shall provide the Board with proof of insurance upon request. All installations must be performed in complete compliance with all applicable statutes, rules and regulations. If permits are required, Owner will obtain all such permits prior to installation. These rules are meant to comply with 47 CFR § 1.4000, as may be amended from time to time. All requirements of such section are hereby incorporated herein. In the event any portion of this section is held to conflict with applicable law, those portions shall be deemed stricken and all other portions of this Installation Policy will remain in full force and effect.

(3) No portion of the Installation Policy may be waived or changed by the Board verbally. Any such waiver or change will be effective only when in writing. If any owner receives the benefit of any waiver or change of the Installation Policy, it shall be that Owner's responsibility and obligation to keep and safeguard the written waiver or change and to produce it upon any future request of the Board.

(4) In the event of a violation of this Section, the Association may bring an action for declaratory and/or injunctive relief and the Owner is subject to a \$50.00 fine to the Association for each violation. If the violation is not corrected within a reasonable length of time as determined by the Board, additional fines of \$10.00 per day will be imposed for each day that the violation continues. The Association shall be entitled to recover its reasonable attorney's fees, costs and expenses incurred in the enforcement of this Section.

5.1.12 Noise Disturbance. Residents shall exercise extreme care to minimize noise and to use musical instruments, radios, televisions, amplifiers, or any other device so as to not disturb other residents. Noise disturbances shall subject the Owner of the Unit from which the noise originates to a fine, as levied by the Board of Directors in its sole discretion.

5.1.13 Increase in Insurance Cost. Nothing shall be done or kept within any Unit or on the Common Areas, including Limited Common Areas, which will increase the cost of insurance to the Association or to other Owners. No Owner shall permit anything to be done or kept within his or her Unit or Common Areas which will result in cancellation of insurance on any Unit.

5.1.14 Single Family Use. Units shall only be occupied and used as a residence by a single family as that term is defined in the local County code.

5.1.15 Lease Restrictions. All leases shall be in writing and be subject to this Declaration and Bylaws. Unit Owners shall not be permitted to lease their Units for an initial term of less than thirty (30) days and shall be subject to any rules and regulations as adopted or modified by the Board of Directors from time to time.

5.1.16 Architectural Control. No building, fence, wall or other structure shall be commenced, erected, altered, or maintained upon the Property, which includes all Limited Common Areas and Common Areas, nor shall any exterior addition to, or change or alteration therein, of any sort, whether structural, landscaping, cosmetic or otherwise, be made by an Owner until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors. Such approval shall be solely at the discretion of the Board of Directors as it deems appropriate from time to time. Any such request shall be deemed to have been denied if the relevant Owner, including any subsequent Owner, cannot produce the written approval granted by the Board upon request, and any changes or alterations made by an Owner, or prior Owner, shall be removed and the property restored to its original condition at the request of the Board. In the event the Board of Directors fails to approve or disapprove a request by an Owner, the request will be deemed to have been denied.

**5.2 Association Rules and Regulations.** In addition to the restrictions and requirements above, the Board of Directors from time to time may, by resolution, adopt, modify, or revoke such rules and regulations governing the conduct of persons and the operation and use of the Units, Lots and Common Areas as it may deem necessary or appropriate in order to assure the peaceful and orderly use and enjoyment of the Property. Reasonable fines may be levied and collected as an assessment for violations of said rules and regulations and for violations of any restrictions contained in this Declaration. A schedule of fines may be adopted by the Board of Directors specifying the amounts of such fines, and any other provisions or procedures related to the levying of such fines.

## **ARTICLE VI - THE ASSOCIATION**

### **6.1 Organization**

(a) The Association has been organized as a nonprofit corporation under the nonprofit corporation laws of the State of Utah (Utah Code Annotated Titled 16 Chapter 6a, as may be amended from time to time). The name of the association is the "Willow Run Homeowners Association."

(b) If the Articles of Incorporation of the Association provide for its perpetual existence, in the event the Association is at any time dissolved, whether inadvertently or deliberately, it shall automatically be succeeded by an unincorporated association of the same name. All of the property, powers and obligations of the incorporated Association existing immediately prior to its dissolution shall thereupon automatically vest in the successor unincorporated association. Such vesting shall thereafter be confirmed as evidenced by appropriate conveyances and assignments by the incorporated Association. However, the Board of Directors, upon its own motion, may re-incorporate the Association without a vote of the Owners. To the greatest extent possible, any successor unincorporated association shall be governed by the Articles of Incorporation and Bylaws (as the same may be amended from time to time) as if they had been drafted to constitute the governing documents of the unincorporated association.

(c) The affairs of the Association shall be governed by a Board of Directors as provided in the Bylaws.

**6.2 Membership.** Each Owner during the entire period of Owner's ownership of one or more Units and/or Lots within the Community shall be a member of the Association. The membership shall commence, exist and continue by simple virtue of the ownership, shall expire automatically upon termination of ownership and need not be confirmed or evidenced by any certificate or acceptance of membership.

**6.3 Voting Rights.** The method of voting shall be as provided in the Bylaws. Voting rights within the Association shall be as follows:

(a) Units and/or Lots. Each Owner shall have one (1) vote in matters of the Association for each Unit and/or Lot owned as set forth in the Bylaws.

**6.4 Powers, Duties and Obligations.** The Association shall have such powers and duties as may be granted to it or imposed by this Declaration, the Articles of Incorporation, the Bylaws and any applicable statute, as such statute may be amended to expand the scope of association powers, including without limitation:

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

- (1) The Association shall maintain the Common Areas.

(2) To the extent not assessed to or paid by the Owners directly, the Association shall pay all real property taxes and assessments levied upon any portion of the Property, provided that the Association shall have the right to contest or compromise any such taxes or assessments.

(3) The Association shall obtain and maintain in force the policies of insurance required by the provisions of this Declaration.

(4) The Association may at any time employ a responsible corporation, partnership, firm, person or other entity as the Managing Agent to manage and control the Community, subject at all times to direction by the Board of Directors, with such administrative functions and powers as shall be delegated to the Managing Agent by the Board of Directors. If the Association chooses to use a Managing Agent, a written contract for such management shall be established and in force at all times during the management term.

(5) The Association shall prepare and furnish, within a reasonable time, an audited financial statement of the Association upon written request of any of the agencies or corporations affiliated with the HUD/FHA or VA financing programs and which have an interest or prospective interest in the project.

(b) Powers and Authority of the Association. The Association shall have all the powers set forth in its Articles of Incorporation and any Bylaws, together with its general powers as a corporation, and the power to do any and all things which may be authorized, required or permitted to be done by the Association under and by virtue of this Declaration, including the power to levy and collect assessments and fines as provided in this Declaration. Without in any way limiting the generality of the foregoing, the Association shall have the following powers:

(1) The Association shall have the power and authority at any time and from time to time and without liability to any Owner for trespass, damage or otherwise, to enter into any Unit and/or Lot for the purpose of maintaining and repairing such Unit and/or Lot or any improvement thereon if for any reason the Owner fails to maintain and repair such Unit and/or Lot or improvement, or for the purpose of removing any improvement constructed, reconstructed, refinished, altered or maintained upon such Unit and/or Lot in violation of this Declaration.

The Association shall also have the power and authority from time to time in its own name, on its own behalf, or in the name and behalf of any Owner or Owners who consent thereto, to commence and maintain actions and suits to restrain and enjoin any breach or threatened breach of this Declaration or any rules and regulations promulgated by the Officers, or to enforce by mandatory injunction or otherwise all of the provisions of this Declaration and such rules and regulations.

(2) In fulfilling any of its duties under this Declaration, including its duties for the maintenance, repair, operation or administration of the Community or in exercising any of its rights to construct, maintain and repair the Common Areas, and provided that any contract for goods or services having a term of more than one (1) year shall state that it may be terminated by either party at the end of the first year or at any time thereafter upon no less than ninety (90) days written notice, the Association shall have the power and authority (i) to pay and discharge any and all liens placed

upon any Unit and/or Lot on account of any work done or performed by the Association in the fulfillment of any of its obligations and duties of maintenance, repair, operation or administration and (ii) to obtain, contract and pay for, or to otherwise provide for:

A. Such utility services, including (without limitation) water, sewer, trash removal, snow removal, electrical, telephone and gas services, as the Officers may from time to time deem desirable;

B. The services of architects, engineers, attorneys and certified public accountants and such other professional or nonprofessional services as the Officers may deem desirable.

(3) The Officers may delegate by resolution or contract to the Managing Agent any of its powers under this Declaration; provided, however, that the Officers cannot delegate to such Managing Agent the power to execute any contract binding on the Association for a sum in excess of One Thousand Dollars (\$1,000.00).

**6.5 Adoption of Bylaws.** The Association has adopted Bylaws for the Association which are being recorded simultaneously with this Declaration as **Exhibit "C."**

**6.6 Registration with the Department of Commerce.**

(a) Pursuant to Utah Code Ann. §§57-8-13.1 and 57-8a-105 as the same may be amended from time to time, the Association shall register with the Utah Department of Commerce in the manner established thereby and shall provide the following information:

(1) The name and address of the Association;

(2) The name, address, telephone number, and, if applicable, email address of the president of the Association;

(3) The name and address of each Board of Directors member;

(4) The name, address, telephone number, and if desired to be contacted by such, the facsimile number and/or email address, of a primary contact person who has Association payoff information that a closing agent needs in connection with the closing of an Owner's financing, refinancing, or sale of the Owner's Unit and/or Lot.

(b) The Association shall submit to the Utah Department of Commerce an updated registration within ninety (90) days after a change in any of the information required to be provided above.

## **ARTICLE VII - PARTY WALLS**



**7.1 General Rules of Law Apply.** Each wall to be built as a part of the original construction of any Unit and/or Townhome and placed substantially on a dividing line between any two (2) Units and/or Townhomes shall constitute a party wall and shall be deemed Common Area. However, in the event the Owner, tenant, guest or invitees causes damage to the party wall, then the general rules of law regarding party walls and liability for damage due to negligence or willful acts or omissions shall apply thereto.

**7.2 Sharing or Repair and Maintenance.** In the event that damage to a party wall is chargeable as an Individual Assessment, the cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use.

**7.3 Right to Contribution Runs with Land.** Other than for instances where the party wall is maintained as a Common Area, the right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

## ARTICLE VIII - MAINTENANCE OBLIGATIONS

### **8.1 Owner's Responsibility.**

(a) **Units.** Maintenance of the Units as defined in Section 1.30 above shall be the sole responsibility of the Owner(s) thereof, who shall maintain such Unit in good repair so as to not interfere with other Owners Units, Townhomes, or the Common Areas. Each Owner at his or her sole expense shall maintain, repair, paint, re-paint, tile, paper or otherwise re-finish or decorate the interior surfaces of the walls, ceilings, floors, interior and exterior windows, and interior and exterior doors/door frames forming the boundaries of his or her Unit and all walls, ceilings, floors, windows and doors within such boundaries, except that the Association shall be responsible to paint all garage doors. In addition to decorating and keeping the interior of his or her Unit in good repair and in a clean and sanitary condition, he or she shall be responsible for the maintenance, repair or replacement of any plumbing fixtures, water heaters, heating equipment, air conditioners, lighting fixtures, refrigerators, dishwasher, disposal equipment, ranges, toilets, water softeners, water filters, or other appliances or fixtures that may be in, or connected with, his or her Unit. Each Unit shall be maintained so as to not detract from the appearance of the Community and so as to not adversely affect the value or use of any other Unit and/or Lot.

(b) **Limited Common Area.** As defined in section 1.14 and subject to the provisions of section 5.1.16 above, each Owner shall, at its own cost, keep the Limited Common Areas appurtenant to their Unit and/or Lot in a clean, sanitary and attractive condition at all times and shall be responsible to maintain, repair, and replace such Limited Common Area and to ensure that any modifications do not cause any hardship or damage to any other Unit and/or Lot Owners. With respect and limited only to the covered parking structures appurtenant to buildings A and J ("**Applicable Carports**"), the Association shall be responsible for the maintenance, repair, and replacement of the Applicable Carports. With respect to the four (4) garages attached to A Building, the Association shall be responsible for the maintenance, repair and replacement of the garages; except the owners within A Building are responsible to keep the inside of the garages maintained in good repair, free from hazardous materials and clean and sanitary from anything that would

reasonably attract insects and rodents. To the extent that the owners who are using the garages are negligent in their maintenance thereof and if failed maintenance or care causes damage to the common areas or may reasonably cause damage to the common areas, the Association may, after notice and a chance to cure given to the owner, remedy the condition of the garage(s) and charge the costs back to the owner as a regular assessment.

**8.2 Maintenance by Association.**

(a) Common Areas and Townhome Exteriors. The Association shall maintain the Common Areas of the Property, excluding Limited Common Area Improvements unless otherwise stated in this Declaration, and shall maintain the exteriors, roofs, exterior structural components of Townhomes, and any other part of the Townhome that is not included in the definition of Unit, as if such Townhomes were Units within the Condominium Property. However, if any area for which the Association is responsible for maintenance, including Common Areas and Townhome exteriors, are damaged by the willful misconduct of an Owner, their guests, tenants, or invitees, the Owner shall be responsible for all such damage.

The Association shall provide for snow removal from the common area including roads and sidewalks, but not from any Limited Common Area benefitting or servicing only one Unit. The Association shall also maintain all Common Area amenities which may be installed from time to time.

Additionally, the Association, by and through the Board of Directors, may assume the Owner's general maintenance responsibility over a Unit and Limited Common Area if, in the opinion of the Board of Directors, the Owner is unwilling or unable to adequately provide such maintenance. Before assuming such maintenance responsibility, the Board of Directors shall provide notice to the Owner of its intention to do so, and if such Owner has not commenced and diligently pursued remedial action with fifteen (15) days after mailing of such written notice, then the Association may proceed to maintain the Unit. The expenses of such maintenance incurred by the Association shall be reimbursed to the Association by the Owner. Such expenses shall be levied and collected in the same manner as assessments pursuant to this Declaration and the Bylaws.

**ARTICLE IX - COMPLIANCE AND ENFORCEMENT**

**9.1 Compliance.** Each Owner, tenant or occupant of a Unit or Lot, and their guests or invitees, shall comply with the provisions of this Declaration, the Bylaws and the rules and regulations adopted pursuant thereto and any applicable statute. Failure to comply therewith shall be grounds for an action or suit maintainable by the Association or an aggrieved Owner.

**9.2 Remedies.** Violation of any provisions of this Declaration, the Bylaws, or any rules or regulations adopted pursuant thereto, or of any decision of the Association made pursuant to such documents, shall give the Board of Directors acting on behalf of the Association, the right, but not the obligation, in addition to any other rights set forth in this Declaration or the Bylaws, or under law, to do any or all of the following after giving notice:

(a) Subject to the provisions of this Declaration, to enter the Unit or Lot as to which such violation exists and to summarily abate and remove, at the expense of the defaulting Owner, any structure, thing, or condition that may exist contrary to the intent and meaning of such provisions, and the Board of Directors shall not thereby be deemed guilty of any manner of trespass, provided that judicial proceedings shall be instituted before any items of construction may be altered or demolished;

(b) To enjoin, abate, or remedy such thing or condition by appropriate legal proceeding;

(c) To levy reasonable fines pursuant to a schedule of fines adopted by resolution of the Board of Directors a copy of which has been delivered to each Owner, mailed to the mailing address of the Unit or Lot or mailed to the mailing address designated by the Owner in writing to the Association;

(d) To terminate the right to receive utility services paid for by assessments, if any, or, except for the right to an assigned parking space, to terminate the right of access to and use of recreational and service facilities of the Association, if any, until the correction of the violation has occurred;

(e) The right of the Association to suspend the voting rights after notice and a hearing for any period not to exceed sixty (60) days for any infraction of any of the published rules and regulations of the Association or of this Declaration, including failure to timely pay an assessment; or,

(f) Bring suit or action against the Owner on behalf of the Association and other Owners to enforce this Declaration, the Bylaws and any rules or regulations adopted pursuant thereto.

**9.3 Action by Owners.** Subject to any limitation imposed under this Declaration, the Bylaws, or Utah law, an aggrieved Owner may bring an action against such other Owner or the Association to recover damages or to enjoin, abate, or remedy such thing or condition by appropriate legal proceedings.

**9.4 Injunctive Relief.** Nothing in this section shall prevent an Owner, the Association, or other interested party from resorting to a court of competent jurisdiction in those instances where injunctive relief may be appropriate.

**9.5 Notification of First Mortgagee.** The Board of Directors shall notify in writing any first Mortgagee of any individual Unit or Lot of any default in performance of the terms of this Declaration by the Owner which is not cured within sixty (60) days provided such Mortgagee has requested in writing to be so notified.

## ARTICLE X - INSURANCE

**10.1 Types of Insurance Maintained by the Association.** The Association shall obtain and maintain, to the extent reasonably available, the following types of insurance:

(a) Subject to section 10.3 below, a public general liability insurance policy covering the Association, its officers, Board members and managing agents having at least a One Million Dollar (\$1,000,000.00) limit per total claims that arise from the same occurrence or in an amount not less than the minimum amount required by applicable law, ordinance or regulation. Coverage under this policy shall include, without limitation, legal liability of the insureds for property damage, medical payments, bodily injuries and deaths of persons in connection with the operation, maintenance or use of the common elements, and legal liability arising out of lawsuits related to employment contracts of the Association;

(b) Workers' compensation insurance, if and to the extent required by law; and

(c) Fidelity bond or bonds covering all Board members, officers, employees and other persons handling or responsible for the funds of, or administered by, the Association, in such amounts as the Board of Directors deems appropriate. Where the Managing Agent has the responsibility for handling or administering funds of the Association, the Managing Agent shall maintain fidelity bond coverage for its officers, employees, and agents handling or responsible for funds of, or administered on behalf of, the Association. Such fidelity bonds shall name the Association as an obligee and shall not be less than the estimated maximum of funds, including reserve funds, in the custody of the Association or Managing Agent, as the case may be, at any given time during the term of each bond. 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. The premiums on all bonds required herein, except those maintained by the Managing Agent, shall be paid by the Association as a common expense. The bonds shall provide that they may not be cancelled or substantially modified (including cancellation for non-payment of premium) without at least 10 days' prior written notice to the Association or insurance trustee.

(d) Subject to section 10.4 below, a "blanket" or "master" policy for Property and casualty insurance, including protection against loss or damage by fire and other extended coverage perils, for the full replacement value of the entire Property (excluding land, foundation, excavation and other items normally excluded from coverage), including fixtures, to the extent they are part of the common elements of the Community, building service equipment and supplies, and other common personal property belonging to the Association. In addition, any fixtures, equipment or other property within the Units (regardless of whether or not such property is a part of the common elements) shall be included in the coverage of the blanket or master policy. The policy shall include coverage for all other perils which are customarily covered with respect to condominiums similar in construction, location and use, including all perils normally covered by the standard "all-risk" endorsement, where such is available.

(e) Flood insurance, if any portion of the Project is deemed to be located within an area which has been officially identified by the Secretary of Housing and Urban Development as having special flood hazards and for which flood insurance has been made available under the National

Flood Insurance Program, the Association shall be required to obtain and pay the premiums upon a “master” or “blanket” policy of flood insurance on the buildings and any other property covered by the required form of policy in an amount deemed appropriate by the Association but not less than an amount equal to eighty percent (80%) of the current replacement costs of all buildings and other insurable property within the Project.

**10.2 Property Insurance.**

(a) The property covered by property insurance shall include any property that, under this Declaration, are Common Areas and facilities and those areas for which the Association has assumed maintenance responsibility.

(b) The total amount of coverage provided by blanket property insurance may not be less than 100% of the full replacement cost of the insured property at the time the insurance is purchased and at each renewal date, excluding items normally excluded from property insurance policies.

(c) Property insurance shall include coverage for any fixture, improvement, or betterment installed by an Owner to a Unit or to Limited Common Areas, including a floor covering, cabinet, light fixture, electrical fixture, heating or plumbing fixture, paint, wall covering, window, and any other item permanently part of or affixed to a unit or to a limited common element.

(d) Each Owner, to the extent the Association is required to provide coverage, is an insured person under a property insurance policy.

(e) If a loss occurs that is covered by a property insurance policy in the name of the Association and another property insurance policy in the name of an Owner:

- (1) the Association’s policy provides primary insurance coverage; and,
- (2) notwithstanding Subsection (e)(1) above, the Owner’s policy applies to that portion of the loss attributable to the policy deductible of the Association.

(f)(i) As used in this Subsection (f), the terms described below shall have the following definitions:

- (1) “Covered loss” means a loss, resulting from a single event or occurrence that is covered by a property insurance policy of an association of unit owners.
- (2) “Unit damage” means damage to a Unit or to Limited Common Area or facility applicable to that Unit, or both.
- (3) “Unit damage percentage” means the percentage of total damage resulting in a covered loss that is attributable to Unit damage.

(f)(ii) An Owner who owns a Unit that has suffered unit damage as part of a covered loss is responsible for an amount calculated by applying the unit damage percentage for that Unit to the amount of the deductible under the property insurance policy of the Association. If an Owner does not pay the amount required under this Subsection within thirty (30) days after substantial completion of the repairs to the Unit, the Association may levy an assessment against the Owner for that amount.

(g) The Association shall set aside an amount equal to the amount of the Association's property insurance policy deductible or \$10,000.00, whichever is less.

(h) The Association shall provide notice in accordance with Utah Code Ann. §57-8-42 to each Owner of that Owner's obligation under Subsection (f) for the association's policy deductible and of any change in the amount of the deductible. If the Association fails to provide notice as provided in Subsection (h)(i), it shall be responsible for the amount of the deductible increase that the Association could have assessed to an Owner under Subsection (h)(i). The failure of the Association to provide notice as set forth in Subsection (h)(i) above, may not be construed to invalidate any other provision of this Section 10.2.

(i) If, in the exercise of the business judgment rule, the Board of Directors determines that a claim is likely not to exceed the property insurance policy deductible of the Association:

(1) the Owner's policy is considered the policy for primary coverage to the amount of the policy deductible of the Association;

(2) an Owner who does not have a policy to cover the property insurance policy deductible of the Association is responsible for the loss to the amount of the policy deductible of the Association, as provided in Subsection (f); and,

(3) the Association need not tender the claim to the Association's insurer.

(j) An insurer under a property insurance policy issued to the Association shall adjust with the Association a loss covered under the Association's policy. Notwithstanding the foregoing, the insurance proceeds for a loss under a property insurance policy of the Association:

(1) are payable to an insurance trustee that the Association designates or, if no trustee is designated, to the Association; and,

(2) may not be payable to a holder of a security interest.

The insurance trustee, if designated, or the Association shall hold any insurance proceeds in trust for the Association, Owners, and lien holders. The insurance proceeds shall be disbursed first for the repair or restoration of the damaged property and, once the damaged property has been completely repaired or restored or the project terminated, any surplus proceeds are payable to the Association, Owners, and lien holders.

(k) An insurer that issues a property insurance policy under this section, or the insurer's authorized agent, shall issue a certificate or memorandum of insurance to:

- (1) the Association;
- (2) an Owner, upon the Owner's written request; and,
- (3) a holder of a security interest, upon the holder's written request.

(l) A cancellation or nonrenewal of a property insurance policy under this section is subject to the procedures stated in Utah Code Ann. §31A-21-303.

(m) If the Board of Directors acquires from an insurer the property insurance required in this Section 10.2, it is not liable to Owners if the insurance proceeds are not sufficient to cover 100% of the full replacement cost of the insured property at the time of the loss.

**10.3 Liability Insurance.** Each Owner is an insured person under a liability insurance policy the Association obtains that insures against liability that may arise from the Owner's interest in the Common Areas and facilities or from membership in the Association.

**10.4 Premiums for Insurance Maintained by Association.** Premiums for all insurance and bonds required to be carried hereunder or otherwise obtained by the Association shall be a Common Expense of the Association, and shall be included in the Annual Assessments. Premiums on any fidelity bond maintained by a third party manager shall not be an expense of the Association.

**10.5 Acceptable Insurance Providers.** The Association shall use generally acceptable insurance carriers.

**10.6 Hazard Insurance on Improved Units.** Each Owner of an improved Unit at all times shall maintain fire and extended coverage insurance or other appropriate damage and physical loss insurance, in an amount equal to not less than one hundred percent (100%) of the current replacement value of the improvements in the Unit.

**10.7 Obligation of Owner to Repair and Restore.** In the event that any damage or destruction of the improvements in a Unit or to an adjoining Unit, any repair, restoration or replacement shall be done in accordance with the plans and specifications for such improvements originally approved by the developer or the Board of Directors as the case may be; unless the Owner desires to construct improvements differing from those so approved, in which event the Owner shall submit plans and specifications for the improvements to the Board of Directors and obtain its written approval prior to commencing the repair, restoration or replacement.

**10.8 Power of Attorney**

(a) Notwithstanding any of the foregoing provisions and requirements relating to Association 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 (the "Insurance Trustee") who shall have exclusive authority to negotiate losses under any policy providing property or liability insurance and to perform such other functions as are necessary to accomplish this purpose. By purchasing a Unit and/or Lot, all Owners appoint the Association or any Insurance Trustee designated by the Association as attorney-in-fact for the purpose of purchasing and maintaining the insurance specified in this section, including: (1) the collection and appropriate disposition of the proceeds thereof; (2) the negotiation of losses and execution of releases of liability; (3) the execution of all documents; and (4) the performance of all other acts necessary to accomplish such purpose.

(b) By purchasing a Unit and/or Lot, all Owners appoint the Association or any trustee designated by the Association as attorney-in-fact for the purpose of representing the Owners in condemnation proceedings or negotiations, settlements, and agreements with the condemning authority for acquisition of the Common Areas, or part thereof, by the condemning authority.

#### ***10.9 Miscellaneous Insurance Policy Requirements.***

(a) Unless stated otherwise herein, the Association shall be named as the insured on the master policy. The policies required herein for the Association must provide that they may not be cancelled or substantially modified without at least thirty (30) days prior written notice to the Association and to each holder of a first mortgage listed as a scheduled holder of a first mortgage in the policies. Loss payments shall not be contingent upon action by the carrier's board of directors, policyholders, or members.

(b) The policies shall include: (1) a waiver of the right of subrogation against Unit and/or Lot Owners individually, (2) that the insurance is not prejudiced by any act or neglect of individual Owners which is not in the control of such owners collectively; and (3) that the policy is primary in the event the Owner has other insurance covering the same loss. The requirements stated in this subsection (b) are generally provided by the insurer in the form of a "Special Condominium Endorsement" or its equivalent.

### **ARTICLE XI - AMENDMENT AND DURATION**

#### ***11.1 Amendments.***

(a) How Proposed. Amendments to the Declaration shall be proposed by either a majority of the Board of Directors or by Owners holding thirty percent (30%) or more of the voting rights of the Association. The proposed amendment must be reduced to writing and shall be included in the notice of any meeting at which action is to be taken thereon or attached to any request for approval or consent to the amendment

(b) Approval Required. This Declaration may be amended if such amendment is approved by Owners holding sixty-seven percent (67%) of those members of the Association, who actually cast votes through the voting procedure authorized by the Board for that particular action (e.g., at a meeting, through mail-in ballot, or a meeting in conjunction with the use of mail-in ballots), provided that any material amendments shall require the approval of Eligible Holders as required in Article 14 below.



(c) Execution and Recordation. An amendment shall not be effective until the amendment is certified by the president and secretary of the Association as being adopted in accordance with this Declaration is acknowledged and is recorded in the appropriate County Recorder's Office.

#### **11.2 Duration.**

(a) Period. All provisions, covenants, conditions and restrictions contained in this Declaration shall continue and remain in full force and effect until there is recorded an instrument directing the termination of this Declaration after the vote and approval of (i) ninety percent (90%) of all of the Owners, (ii) sixty-seven percent (67%) of the votes of Eligible Holders, and (iii) the County of Washington. Upon such termination, the Property may be deemed a special assessment area by the County at which time each Owner shall be obligated to pay assessments levied by the County.

(b) Execution and Recording of Termination Certificate. Any such termination shall become effective only if a certificate of the president and secretary of the Association, certifying that termination as of a specified termination date has been approved in the manner required herein, is duly acknowledged and recorded in the County Recorder's Office not less than six (6) months prior to the intended termination date.

### **ARTICLE XII – MORTGAGEE RIGHTS**

**12.1 Approval Required.** In addition to any other approvals required by this Declaration, or the Bylaws, the prior approval of fifty-one percent (51%) of the Eligible Holders (based upon one vote for each Mortgage owned) must be obtained for the following (however, the Mortgagee consent required herein is only applicable to those Mortgagees that have made a prior written request to be notified of any of the following issues):

(a) The abandonment, termination, or removal of the Property from the provisions of this Declaration, except when provided by law in the case of substantial destruction by fire or other casualty or in the case of a taking by condemnation or eminent domain;

(b) The addition of Common Property;

(c) Any material amendment to this Declaration or the Bylaws. Except for an amendment to the Declaration or Bylaw if its purpose is to correct technical errors or to clarify, a change to the following would be considered as material: (1) Voting rights; (2) The funding of reserves for maintenance, repair, and replacement of the Common Areas; (3) Changing general responsibility for maintenance and repairs (excluding minor changes); (4) Redefinition of any Unit boundaries; (5) Convertibility of Units into Common Property or vice versa; (6) Expansion or contraction of the project, or the addition, annexation, or withdrawal of property from the project; (7) Insurance or fidelity bond; (8) Restoration or repair of the project (after a hazard damage or partial condemnation) in a manner other than that specified in this Declaration or the Bylaws; (9) Any action to terminate the legal status of the project after substantial destruction or condemnation occurs; (10) Assessments, assessment liens, or subordination of such liens; (11) Rights to use of

Common Areas; (12) The interest in the general or limited Common Area; (13) Leasing of Units; (14) Imposition of any right of first refusal of similar restriction on the right of a Unit Owner to sell, transfer, or otherwise convey his or her Unit; (15) Change by the Association from professional management to self-management and vice versa; (16) Any provisions that expressly benefit mortgage holders, insurers, or guarantors; or

(d) Use of hazard insurance proceeds for losses to any planned community property, whether to Units, for other than the repair, replacement, or reconstruction of such improvements, except as provided by statute in cases of substantial loss to the Units.

**12.2 Additional Rights.** In addition to the approvals required above, each mortgagee (or beneficiary of a trust deed or vendor and including guarantors) shall have the following rights:

(a) Right to Examine Books and Records. All mortgagees shall have the right to examine the books and records of the Association upon reasonable notice and at reasonable times.

(b) Right to Annual Reports. All mortgagees shall, upon written request, be entitled to receive an annual financial statement of the Association within ninety (90) days following the end of any fiscal year of the Association.

(c) Right to Receive Written Notice of Meetings. The Association shall give all mortgagees, upon written request, written notice of all meetings of the Association, and such mortgagees shall be permitted to designate a representative to attend all such meetings.

**12.3 Request for Approval of Mortgagees.** Any mortgagee that has requested, and subsequently receives, a written request to approve amendments to the Declaration or Bylaws, or any other action to be taken by the Board of Directors, the Association or Owners, shall be considered to have given such approval unless such mortgagee delivers or posts a negative response within thirty (30) days after delivery by the Association of such request.

**12.4 Rights of Eligible Holders.** In addition to the approvals required in Section 14.1 above and the rights provided in Section 14.2 above, each Eligible Holder shall have the following rights:

(a) Right to Receive Written Notice of Meetings. The Association shall give all Eligible Holders written notice of all meetings of the Association, and such Eligible Holders shall be permitted to designate a representative to attend all such meetings.

(b) Right to Notice of Proposed Amendments. All Eligible Holders, upon written request to the Association, will be entitled to timely written notice of any proposed amendment effecting a change in: (1) the boundaries of any Unit or the exclusive easement rights appertaining thereto; (2) the interests in the general or limited Common Areas appertaining to any Unit or the liability for common expenses appertaining thereto; (3) the number of votes in the Association appertaining to any Unit; or (4) the purposes to which any Unit or the Common Areas are restricted.

(c) Other Rights to Notice. All Eligible Holders, upon written request to the Association, will be entitled to timely written notice of: (1) any proposed termination of the condominium

regime; (2) any condemnation loss or any casualty loss which affects a material portion of the Property or which affects any Unit on which the Eligible Holder holds a Mortgage interest; (3) any delinquency in the payment of assessments or charges owed by the Owner of a Unit subject to a Mortgage of the Eligible Holder, where such delinquency has continued for a period of 60 days; (4) any lapse, cancellation or material modification of any insurance policy maintained by the Association.

### **ARTICLE XIII - MISCELLANEOUS PROVISIONS**

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

**15.2 Joint Owners.** In any case in which two or more persons share the ownership of any Unit, regardless of the form of ownership, the responsibility of such persons to comply with this Declaration shall be a joint and several responsibility and the act or consent of any one or more of such persons shall constitute the act or consent of the entire ownership interest; provided, however, that in the event such persons disagree among themselves as to the manner in which any vote or right of consent held by them shall be exercised with respect to a pending matter, any such person may deliver written notice of such disagreement to the Board of Directors, and the vote or right of consent involved shall then be disregarded completely in determining the proportion of votes or consents given with respect to such matter in accordance with the Bylaws.

**15.3 Lessees and Other Invitees.** Lessees, invitees, contractors, family members and other persons entering the Property under rights derived from an Owner shall comply with all of the provisions of this Declaration, the Bylaws and rules and regulations adopted by the Association restricting or regulating the Owner's use, improvement or enjoyment of such Owner's Unit and other areas within the Property. The Owner shall be responsible for obtaining such compliance and shall be liable for any failure of compliance by such persons in the same manner and to the same extent as if the failure had been committed by the Owner.

**15.4 Nonwaiver.** Failure by the Association, the Board of Directors or any Owner to enforce any covenant or restriction contained in this Declaration shall in no event be deemed a waiver of the right to do so thereafter.

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

**15.6 Notice of Sale, Mortgage, Rental, or Lease.** Immediately upon the sale, mortgage, rental, or

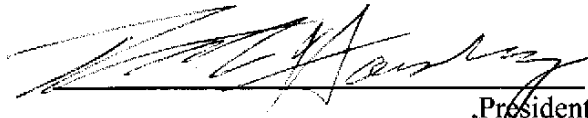
lease of any Unit, the Owner shall promptly inform the secretary or manager of the name and address of said grantee, vendee, mortgagee, lessee, or tenant.

**15.7 Service of Process.** The person designated to receive service of process on behalf of the Project shall be the individual stated as the registered agent for the incorporated Association as shown on the records of the Utah Division of Corporations. Otherwise, the president of the Association shall be the agent for service of process as shown on the Homeowner and Condominium Association Registry with the Utah Department of Commerce.

*[Signature Page to Follow]*

IN WITNESS WHEREOF, Willow Run Homeowners Association, has executed this Declaration this 4<sup>th</sup> day of January, 2012.

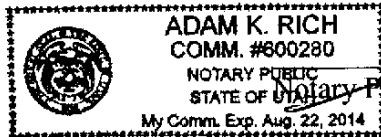
**Willow Run Homeowners Association**

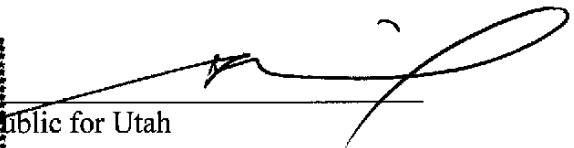
  
\_\_\_\_\_  
, President

  
\_\_\_\_\_  
, Secretary

STATE OF UTAH    )  
                          :SS  
County of Utah    )

On the 4<sup>th</sup> day of JANUARY, 2012, personally appeared before me ROBERT J. FORSBERG and CAROLYN RHODES who, being first duly sworn, did that say that they are the President and Secretary of the Willow Run Homeowners Association and that the foregoing instrument was signed in behalf of said Association by authority of its Management Committee; and each of them acknowledged said instrument to be their voluntary act and deed.



  
\_\_\_\_\_  
Notary Public for Utah

**EXHIBIT A**  
(LEGAL DESCRIPTION)

Willow Run Homeowners Association

Willow Run Resort Condominiums. Phase I:

Beginning at a point on the East line of Valley View Drive, said point being S 0°40'10" E 144.96 feet along the center section line and West 133.12 feet from the center of Section 26, Township 42 South, Range 16 West, S.L.B. & R. M. and running thence along the East line of Valley View Drive N 32°27'00" E 393.46 feet to the true point of beginning and proceeding along Valley View Drive as follows: N 32°27' W E 295.54 feet; thence S 57°33'00" E 70.50 feet; thence S 32°27' W 35.00 feet; thence S 57°33'00" E 228.29 feet; thence S 10°50'18" E 142.02 feet; thence S 44°52'50" W 117.73 feet; thence S 79°38'29" W 74.03 feet; thence N 44°36'48" W 70.28 feet; thence N 10°45'09" W 11.50 feet; thence N 57°33'00" W 149.65 feet, to a point of curvature of a 16.00 ft. radius curve to the left (radius point bears S 32°27' W) and running along said curve 25.13 feet; thence N 57°33'00" W 74.50 feet to the true point of beginning. Containing: 2.170 acres.

Willow Run Resort Condominiums. Phase II (Amended):

Beginning at a point in the Easterly right of way line of Valley View Drive, said point being S 0°40'10" E 34.023 feet along the center section line and West 61.29 feet from the center section corner of Section 26, Township 42 South, Range 16 West, Salt Lake Base and Meridian, and running thence N 77°27' E 262.005 feet along said Valley View Drive to the westerly line of Willow Run Resort Condominiums Phase I; thence along said Westerly line as follows: S 57°33' E 74.50 feet to a point of a 16.00 foot radius curve to the right, the radius point of which bears S 57°33' E; thence easterly 25.13 feet along the arc of said curve to the point of tangency; thence S 57°33' E 149.65 feet; thence S 10°45'09" E 11.50 feet; thence S 44°36'48" E 6.13 feet; thence leaving said Phase I line S 32°27' W 118.85 feet; thence S 77°27' W 56.57 feet; thence N 57°33' W 141.50 feet, thence S 32°27' W 109.40 feet; thence N 57°33' W 72.50 feet to the point of beginning. Containing 1.116 acres.

Willow Run Resort Condominiums. Phase III:

Beginning at a point on the Easterly right of way line of Valley View Drive, said point being S 0°40'10" E 34.023 feet along the center section line and West 61.29 feet from the center section corner of Section 26, Township 42 South, Range 16 West, Salt Lake Base and Meridian and running thence S 32°27' W 126.455 feet along said Valley View Drive, thence S 57°33' E 272.50 feet, thence N 32°27' E 128.05 feet, thence N 57°33' W 16.115 feet, thence N 32°27' E 83.335 feet, thence N 27°33' W 48.94 feet to the Westerly line of "Willow Run Resort Condominiums Phase II Amended" thence along said Phase II Amended as follows: N 57°33' W 141.50 feet, thence S 32°27' W 109.40 feet, thence N 57°33' W 72.50 feet to the point of beginning. Containing 1.242 acres.

Willow Run Resort Condominiums - Phase IV Amended:

Beginning at the most Southerly corner of Willow Run Resort Condominiums Phase III, said point being S 0°40'10" E 286.964 feet along the center section line and East 97.855 feet from the center of Section 26, Township 42 South, Range 16 West, Salt Lake Base and Meridian and running thence along the boundary line of Willow Run Resort Condominiums Phase III as

follows; N 32'27" E 128.05 feet, thence N 57°33'- VV 16.115 feet, thence N 32'27" E 83.335 feet; thence N 27°33' W 48.94 feet to the most Southerly corner of Willow Run Resort Condominiums Phase II "Amended"; thence leaving said Phase III and running N *ITTT* E 56.57 feet along said Phase II "Amended", thence leaving said Phase II "Amended" and running S 57°33' E 171.82 feet, thence N 35°48' E 38.83 feet; thence S 54'12" E 125.00 feet, thence S 35°48' W 18.80 feet; thence S 54°12' E 69.00 feet; thence S 35°48' W 285.00 feet; thence N 57°33' VV 331.51 feet to the point of beginning. Containing 2.356 acres, more or less.

Willow Run Resort Condominiums, Phase V:

Beginning at the most northerly point of willow run resort condominiums phase i, said point being north 0°40'10" west 436.50 feet along the center section line and east 243.366 feet from the center of section 26, township 42 south, range 16 west. Salt Lake Base and Meridian and running thence south 57°33' east 70.50 feet; thence south 32°27' west 35.00 feet; thence south 57°33' east 228.29 feet; thence south 10°50'18" east 142.02 feet; thence south 44°52'50" west 117.73 feet; thence south 79°38'29" west 74.03 feet; thence north 44°36'48" west 64.15 feet, thence south 32°27' west 118.85 feet; thence south 57°33' east 171.82 feet; thence north 35'48" east 38.83 feet; thence south 54°12' east 125.00 feet; thence south 35°48' west 18.80 feet; thence south 54°12' east 69.00 feet to an existing fence line; thence north 35°48' east along said fence line 115.00 feet; thence north 35°58'30" east along an existing fence line 343.27 feet to a point on the southerly line of Indian Hills Drive, said point being on a 2033.00 foot radius curve to the right (bearing to radius point is n 59°44'11 e), thence northwesterly 29.46 feet along the arc of said curve to a point of tangency; thence north 29°26' west 17.49 feet to the point of a 5813.42 foot radius curve to the right; thence northwesterly 245.29 feet along the arc of said curve, thence leaving Indian Hills Drive and running north 57°33' west 393.13 feet to the easterly line of Valley View Drive, thence south 32°27' west 200.00 feet to the point of beginning. Containing 5,469 acres

Legal Description also known as:

- WRR-1 - WILLOW RUN RESORT 1 CONDO (SG)
- WRR-2 - WILLOW RUN RESORT 2 CONDO AMD (SG)
- WRR-3 - WILLOW RUN RESORT 3 CONDO (SG)
- WRR-4 - WILLOW RUN RESORT 4 CONDO AMD (SG)
- WRR-5 - WILLOW RUN RESORT 5 CONDO AMD (SG)

**EXHIBIT B - Unit Numbers and Square Footage**

(Refer to Article II, 2.4)

UNIT #	Square Feet	% of Total	Phase	UNIT #	Square Feet	% of Total	Phase
A101	1,057	1.2%	I	1	1,770	2.0%	III
A102	783	0.9%	I	2	1,704	1.9%	III
A103	783	0.9%	I	3	1,510	1.7%	III
A104	1,181	1.3%	I	4	170	0.2%	III
A105	1,181	1.3%	I	5	1,770	2.0%	III
A106	1,181	1.3%	I	6	1,542	1.7%	III
A107	1,181	1.3%	I	7	1,704	1.9%	III
A108	1,057	1.2%	I	8	1,542	1.7%	III
A109	1,057	1.2%	I	9	1,704	1.9%	III
A201	1,057	1.2%	I	10	1,704	1.9%	III
A202	792	0.9%	I	11	1,820	2.1%	IV
A203	792	0.9%	I	12	1,704	1.9%	III
A204	1,421	1.6%	I	13	1,820	2.1%	IV
A205	1,421	1.6%	I	14	1,766	2.0%	IV
A206	1,421	1.6%	I	15	1,820	2.1%	IV
A207	1,421	1.6%	I	16	1,766	2.0%	IV
A208	1,057	1.2%	I	17	1,820	2.1%	IV
A209	1,057	1.2%	I	18	1,766	2.0%	IV
J101	747	0.8%	II	19	1,612	1.8%	IV
J102	747	0.8%	II	20	1,766	2.0%	IV
J103	1,115	1.3%	II	21	1,612	1.8%	IV
J104	1,115	1.3%	II	22	1,766	2.0%	IV
J105	612	0.7%	II	24	1,766	2.0%	IV
J106	475	0.5%	II	26	1,766	2.0%	IV
J107	475	0.5%	II	28	1,766	2.0%	IV
J108	612	0.7%	II	30	1,766	2.0%	IV
J109	747	0.8%	II	32	1,766	2.0%	IV
J110	747	0.8%	II				
J111	747	0.8%	II				
J112	747	0.8%	II				
J201	1,283	1.5%	II				
J202	1,283	1.5%	II				
J203	1,674	1.9%	II				
J204	1,674	1.9%	II				
J205	992	1.1%	II				
J206	695	0.8%	II				
J207	695	0.8%	II				
J208	992	1.1%	II				
J209	1,283	1.5%	II				
J210	1,283	1.5%	II				
J211	1,283	1.5%	II				
J212	1,283	1.5%	II				
Square Feet B		43,206					
Square Feet G		44,988					
<b>Total Square Feet</b>		<b>88,194</b>					
Percentage C		49.0%					
Percentage H		51.0%					
<b>Total Percentage</b>		<b>100.0%</b>					



**EXHIBIT C**  
**BYLAWS**  
**OF**  
**WILLOW RUN HOMEOWNERS ASSOCIATION**

**ARTICLE 1**  
**PLAN OF UNIT OWNERSHIP**

1.1 Name and Location. These are the Bylaws of the Willow Run Homeowners Association (the "Association"). Willow Run Homeowners Association is a residential Community that has been subjected to the Declaration recorded herewith.

1.2 Principal Office. The principal office of the Association shall be located at such place as may be designated by the Board of Directors from time to time.

1.3 Purposes. This Association is formed to serve as a means through which the Unit and/or Lot Owners may take action with regard to the administration, management and operation of the properties and Units and/or Lots therein.

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

1.5 Composition of Association. The Association shall be composed of all Owners and the Association itself, to the extent any of these own any Units and/or Lots.

1.6 Incorporation of Association.

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

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

they had been made to constitute the governing documents of the unincorporated association.

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

## ARTICLE 2 MEETING OF ASSOCIATION

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

2.2 Annual Meetings. Each regular annual meeting of the members shall be held on the same day of the same month of each year at a time and place within the State of Utah selected by the Board of Directors of the Association. If the annual meeting of the members is a legal holiday, the meeting will be held on the first day following which is not a legal holiday.

2.3 Special Meetings. Special meetings of the members may be called at any time by the president or by the Board of Directors, or upon written request of the at least thirty percent (30%) of the members stating the purpose of the meeting. Business transacted at a special meeting shall be confined to the purposes stated in the notice.

2.4 Notice of Meetings. Written notice of each meeting of the members shall be given by, or at the direction of, the Secretary or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, at least twenty (20) days but not more than sixty (60) days before such meeting to each member entitled to vote thereat, addressed to the member's address last appearing on the books of the Association, or supplied by such member to the Association for the purpose of notice. The notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting.

### 2.5 Notice, Affairs, Electronic Means.

(a) Notice. Any other provisions of the Declaration or these Bylaws notwithstanding and except as provided in paragraph (b) below, in any circumstance where notice is required to be given to the Owners, the Association may provide notice by electronic means, including text message, email, or the Association website, if the Board deems the notice to be fair and reasonable. It is the responsibility of each member to provide the Association with current and accurate information for the purpose of receiving notice by electronic means. The Board is authorized to promulgate rules and procedures facilitating the implementation of this section 2.5 as it deems fit from time to time, including requiring members to furnish the Association with a current email address.

(b) Option to Opt-Out. Upon receiving a request in writing from a member specifically requesting to opt-out from receiving notice by electronic means, the Association shall deliver notice by regular first class mail to the Member.

(c) Transactions or Actions. Any other provisions of the Declaration or these Bylaws notwithstanding, any transaction or action involving the business or affairs of the Association, including but not limited to voting and providing notice or records, may be conducted by electronic means.

(1) The Association may accept a vote, consent, written ballot, waiver, proxy appointment, or proxy appointment revocation by electronic means as the act of the member if the Board of Directors does so in good faith and has no reason to believe it is not the act of the member.

(2) A writing may be delivered in an electronic medium or by electronic transmission, and may be signed by photographic, electronic, or other means. An electronic record or electronic signature is attributable to a person if it was the act of the person. An electronic signature may consist of a mark, symbol, character, letter, or number or any combination thereof attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record and the same shall be considered the signature of such person.

(3) A writing includes any document, record, vote, ballot, proxy, or instrument required or permitted to be transmitted by a Member or by the Association.

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

2.7 Proxies, Absentee Ballots and Rights of Mortgagees.

(a) Proxies

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

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

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

(4) An Owner may not revoke a proxy given except by actual notice of revocation to the person presiding over a meeting of the Association or to the Board of Directors if a vote is being conducted by written ballot in lieu of a meeting pursuant to Section 2.12 below.

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

(b) Absentee Ballots. At the discretion (which shall be announced in the formal notice of the meeting) of the Board of Directors, a vote may be cast by absentee ballot.

(c) Mortgage Rights.

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

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

#### 2.8 Fiduciaries and Joint Owners.

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

(b) Joint Owners. Whenever any Unit and/or Lot is owned by two or more persons jointly, according to the records of the Association, the vote of the Unit and/or Lot may be exercised by any one of the Owners then present, in the absence of protest by a co-owner. In the event of a protest, no one co-owner shall be entitled to vote without the approval of all co-owners. In the event of disagreement among the co-owners, the vote of the Unit and/or Lot shall be disregarded completely in determining the proportion of votes given with respect to the matter.

#### 2.9 Quorum of Owners.

(a) At the first such meeting or voting procedure authorized by the Board, the presence at a meeting in person, proxy, or mail-in ballot of thirty percent (30%) of Owners shall constitute a quorum of the Association; provided however, that if a quorum is not present at a meeting duly called, the Board shall have the right to continue said meeting to a date not more than sixty (60) days after the date of scheduled meeting. At such rescheduled meeting, those Owners entitled to vote who are present in person, by proxy or mail-in ballot shall constitute a quorum for all purposes.

(b) The subsequent ratification of an Owner, in the action taken at a meeting shall constitute the presence of the person for the purpose of determining a quorum. When a

quorum is once present to organize a meeting it cannot be broken by the subsequent withdrawal of an Owner or Owners.

2.10 Binding Vote. The vote of at least sixty-seven percent (67%) of those members of the Association who actually cast votes through the voting procedure authorized by the Board for that particular action (e.g., at a meeting, through mail-in ballot, or a meeting in conjunction with the use of mail-in ballots) shall be the act of the Owners, unless the vote of a greater number is otherwise required by the Bylaws, Declaration, or by applicable law.

2.11 Order of Business. The order of business at annual meetings of the Association shall be according to the order established by the President, and by way of example, may include the following: (a) Calling of the roll and certifying of proxies; (b) Proof of notice of meeting or waiver of notice; (c) Reading of minutes of preceding meeting; (d) Reports of officers; (e) Reports of committees, if any; (f) Election of Board members; (g) Unfinished business; (h) New business, including review of and voting on reserves as required in the Declaration; and (i) Adjournment.

2.12 Meeting Procedure. Rules of order may be adopted by resolution of the Board of Directors, otherwise, the President shall conduct meetings according to the procedure he or she deems fit.

2.13 Action by Written Ballot in Lieu of a Meeting.

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

(b) Form and Effect of Ballot. The written ballot must set forth each proposed action and provide an opportunity to vote for or against each proposed action. A written ballot may not be revoked.

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

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

(2) Specify the period during which the Association will accept written ballots for counting, which period shall end on the earliest of the following unless the vote is pursuant to the secrecy procedure described in Subsection (d) of this section: (A) The date on which the Association has received a sufficient number of approving ballots to pass the proposal; (B) The date on which the Association has received a sufficient number of disapproving ballots to render the proposal impossible of passage; or (C) A date certain on which all ballots must be returned to be counted.

(d) **Secrecy Procedure.** The Board of Directors may elect to conduct a vote pursuant to this section by a secrecy procedure whereby a written ballot is accompanied by: (1) A secrecy envelope; (2) A return identification envelope to be signed by the owner; and (3) Instructions for marking and returning the ballot.

(e) **Determination of Vote.** The outcome of a vote by written ballot in lieu of a meeting shall be determined by the Board of Directors within seventy-two (72) hours of the deadline for return of ballots, or in the event the ballot return date is postponed, within forty-eight (48) hours of the postponed date. Matters that may be voted on by written ballot shall be deemed approved or rejected as follows:

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

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

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

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

(f) **Owner Notification of Ballot Results.** The Board shall notify each Owner within fifteen (15) days after the ballots have been counted, by mail, e-mail or other method reasonably calculated to provide notice, of the results of the ballot or that a quorum of ballots was not returned.

#### 2.14 Action Without a Meeting.

(a) Any action that may be taken at any annual, regular or special meeting of the Association may be taken without a meeting and without solicitation of written ballots pursuant to this Section 2.13, if the action is taken by the number of owners required to pass the action.

(b) The action must be evidenced by one or more written consents describing the action taken, signed by the number of Owners required to pass the action, and delivered to the Association for inclusion in the minutes or filing with the Association records.

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

### **ARTICLE 3 BOARD OF DIRECTORS – SELECTION, TERM OF OFFICE**

#### **3.1 Number, Term, and Qualification.**

(a) The affairs of the Association shall be governed by a Board of Directors composed of seven (7) directors. It is the intent of these Bylaws that the terms of the directors shall be staggered. The terms of each of the directors of the Association are already staggered; therefore, at the end of each director's term, the successor elected at the end of a director's term shall serve for terms of three (3) years.

(b) Upon a binding vote of the voting rights entitled to be cast by the members present or represented by proxy or absentee ballot, if permitted, at which a quorum is present, the Board of Directors may be increased from five (5) directors to seven (7) directors or may be decreased from seven (7) directors to (5) directors, as the case may be. If the number of directors is increased, two (2) additional directors shall be elected by the members to serve, one for a one-year term, and one to serve for a two-year term.

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

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

#### **3.3 Removal of Board members.**

(a) At any annual or special meeting, other than a meeting by written ballot conducted pursuant to Section 2.12 above, any one or more of the Board members, other than

interim Board members, may be removed, with or without cause, by a majority of the Owners present in person or by proxy, at a duly constituted meeting. A successor may be elected at that meeting to fill the vacancy thus created. The notice of the meeting must state that the removal is to be considered and any Trustee whose removal has been proposed by the owners may be given an opportunity to be heard at the meeting.

(b) The Board of Directors, pursuant to Section 6.2(c) below, may declare the office of a member of the Board of Directors to be vacant in the event such member is absent from three (3) consecutive regular meetings of the Board of Directors. The vacancy shall be filled as provided in Section 3.2 above.

3.4 Compensation. No Board member shall receive compensation for any service he or she may render to the Association. However, any Trustee may be reimbursed for actual expenses incurred in the performance of his or her duties.

3.5 Action Taken Without A Meeting. The Board members shall have the right to take any action in the absence of a meeting which they could take at a regular or special meeting by obtaining the written approval of all the Board members in accordance with Utah Code Ann. §16-6a-813, as amended from time to time. Any action so approved shall have the same effect as though taken at a meeting of the Board members.

#### **ARTICLE 4 NOMINATION AND ELECTION OF BOARD OF DIRECTORS MEMBERS**

##### 4.1 Nomination.

(a) Method of Nomination. Nomination for election to the Board of Directors, including action under Section 3.3 above, may be made by a Nominating Committee. Nominations may also be made from the floor at the annual meeting or any special meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies.

(b) Nominating Committee. The Nominating Committee shall consist of a chairman, who shall be a member of the Board of Directors; and two (2) or more members of the Association.

4.2 Election. At the election, the members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

#### **ARTICLE 5 MEETINGS OF BOARD OF DIRECTORS**

##### 5.1 Organizational Meeting.



(a) **Location, Date and Time.** The first meeting of a newly-elected Board of Directors shall be held within fourteen (14) days of election at such place, date and time as shall be fixed by the Board members at the meeting at which the Board members were elected and no notice shall be necessary to owners or to the newly elected Board members in order to legally hold the meeting providing a majority of the elected Board members are present.

(b) **Procedure and Business.** Until the election of new officers, the meeting shall be chaired by the outgoing president, or in the absence of such person, the outgoing secretary, regardless of whether the outgoing president or secretary is as member of the newly constituted board. At the organizational meeting, the Board of Directors shall elect officers in accordance with Section 7.2 below and may conduct any other Association business.

5.2 **Regular Meetings.** Regular meetings of the Board of Directors shall be held, at such place and hour as may be fixed from time to time by resolution of the Board. Should the meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday, or at a another date and time agreed upon by the Board of Directors, but not more than one week after the legal holiday.

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

5.4 **Meeting Procedure.** Unless other rules of order are adopted by resolution of the Board of Directors:

(a) Meetings of the Board of Directors shall be conducted by the President.

(b) A decision of the Board of Directors may not be challenged because the appropriate rules of order were not used.

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

5.5 **Open Meetings; Executive Sessions.**

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

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

- (1) Consultation with legal counsel concerning the rights and duties of the Association regarding existing or potential litigation or criminal matters;
- (2) Personnel matters, including salary negotiations and employee discipline;
- (3) The negotiation of contracts with third parties;
- (4) Collection of unpaid assessments; and
- (5) Other matters of a sensitive, private, or privileged nature.

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

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

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

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

**ARTICLE 6  
POWERS, RIGHTS, AND DUTIES OF THE BOARD OF DIRECTORS**

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

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

(a) Adopt and publish rules and regulations governing the use of the Common Areas, including any improvements and amenities located thereon, and the personal conduct of the members and their guests thereon, and to establish penalties for the infraction thereof.

(b) Suspend the voting rights and right to use of any recreational facilities located on any Common Areas of a member during any period in which such member shall be in default in the payment of any assessment levied by the Association. Such rights may also be suspended for a period not to exceed sixty (60) days for infraction of published rules and regulations or any provisions of the Declaration.

(c) Declare the office of a member of the Board of Directors to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board of Directors.

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

(e) Supervise all officers, agents and employees of this Association, and to see that their duties are properly performed;

(f) As more fully provided in the Declaration, to:

(1) Foreclose the lien against any Unit and/or Lot for which Assessments are not paid within thirty (30) days after the due date thereof or to bring an action at law against the Owner personally obligated to pay the same;

(2) Procure and maintain adequate liability and hazard insurance on property Owned by the Association or maintained by the Association if required by the Declaration.

(3) Cause all officers or employees, if any, having fiscal responsibilities to be bonded as it may deem appropriate.

(4) Cause to be maintained the Common Areas and any other areas shown on the Plat that may be owned by governmental entities who are not maintaining such areas and any other property required to be maintained by the Declaration.

- (5) Establish and maintain the financial accounts of the Association.
- (6) Establish a budget for payment of all Common Expenses of the Association, and institute and maintain a voucher system for payment, which may require a sufficient number of signatories thereon as may be reasonably necessary to prevent any misuse of the Association's funds.
- (7) In the Board's discretion, appoint a Nominating Committee, as provided in these Bylaws. In addition, the Board of Directors shall appoint such other committees as deemed appropriate in carrying out its purpose.

## **ARTICLE 7 OFFICERS AND THEIR DUTIES**

### **7.1 Designation and Qualification.**

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

(b) **Qualifications.** The president and vice-president shall be a member of the Board of Directors, but the other officers need not be Board members. Any Board member may be an officer of the Association.

(c) **Multiple Offices.** The offices of secretary and treasurer may be held by the same person. No person shall simultaneously hold more than one (1) of any of the other offices specified in subsection (a) of this section.

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

**7.2 Election and Vacancies.** The officers of the Association may be elected by the Board of Directors at the organizational meeting of each new Board held in accordance with Section 5.1 above or any Board of Directors meeting thereafter to serve until their respective successors are elected at the next organizational meeting. If any office becomes vacant by reason of death, resignation, removal, disqualification or any other cause, the Board of Directors shall elect a successor to fill the unexpired term at any meeting of the Board of Directors.

**7.3 Resignation.** Any officer may resign at any time by giving written notice to the Board of Directors, the president or the secretary. The resignation shall take effect on the date of receipt of the notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of the resignation shall not be necessary to make it effective.

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

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

7.6 Duties of Officers. The duties of the officers are as follows:

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

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

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

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

## **ARTICLE 8 INDEMNIFICATION OF OFFICERS AND BOARD MEMBERS**

Each officer and Board member of the Association, in consideration of his or her services, shall be indemnified by the Association to the extent permitted by law against expenses and liabilities reasonably incurred by him or her in connection with the defense of any action, suit or proceeding, civil or criminal, to which he or she may be a party by reason of being or

having been a Board member or officer of the Association. The foregoing right to indemnification shall be exclusive of any other rights to which the Board member or officer or person may be entitled by law or agreement or vote of the members or otherwise.

## **ARTICLE 9 RECORDS AND AUDITS**

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

### 9.1 General Records.

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

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

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

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

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

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

### 9.4 Financial Reports and Audits.

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

(b) From time to time, the Board of Directors, in its sole discretion and at the expense of the Association, may obtain an audit by a certified public accountant or other financial review of the books and records pertaining to the Association and furnish copies thereof to the Owners and Mortgagees of Units and/or Lots.

9.5 Inspection of Records by Owners.

(a) Except as otherwise provided in Section 9.6 below, all records of the Association shall be reasonably available for examination by an Owner and any Mortgagee of a Unit pursuant to rules adopted by resolution of the Board of Directors or if no such resolution has been adopted, pursuant to the Utah Revised Nonprofit Corporation Act.

(b) The Board of Directors shall maintain a copy, suitable for the purposes of duplication, of the following: (1) The Declaration, Bylaws and any amendments in effect or supplements thereto, and rules and regulations of the Association; (2) The most recent financial statement prepared pursuant to Section 9.4 above; and (3) The current operating budget of the Association.

(c) The Association, within five (5) business days after receipt of a written request by an owner, shall furnish the requested information required to be maintained under Subsection (b) of this section, subject to a reasonable fee for furnishing copies of any documents, information or records described in this section. The fee may include reasonable personnel costs incurred to furnish the information.

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

9.6 Records Not Subject to Inspection. Records kept by or on behalf of the Association may be withheld from examination and duplication to the extent the records concern:

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

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

(c) Communications with legal counsel that relate to matters specified in Subsections (a) and (b) of this section, and any other communications with legal counsel that are protected by any privilege, including the attorney client privilege.

(d) Disclosure of information in violation of law.

(e) Documents, correspondence or management or Board reports compiled for or on behalf of the Association or the Board of Directors by its agents or committees for consideration by the Board of Directors in executive session held in accordance with these Bylaws.

(f) Documents, correspondence or other matters considered by the Board of Directors in executive session held in accordance with these Bylaws.

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

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

#### **ARTICLE 10 ASSESSMENTS**

10.1 Each member is obligated to pay to the Association Assessments specified in the Declaration which are secured by a continuing lien upon the Unit and/or Lot against which the assessment is made.

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

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

#### **ARTICLE 11 AMENDMENTS**

11.1 Adoption. Amendments to these Bylaws may be approved by the Association at a duly constituted meeting or meeting by written ballot in lieu of a meeting conducted pursuant to these Bylaws. The affirmative assent of at least sixty-seven percent (67%) of those members of the Association, who actually cast votes through the voting procedure authorized by the Board for that particular action (e.g., at a meeting, through mail-in ballot, or a meeting in conjunction with the use of mail-in ballots) at which a quorum is present shall be the act of the Owners. In addition to the approval of the Owners, fifty-one percent (51%) of the Eligible Holders shall be required for any amendment or change to the material provisions of the Bylaws pertaining to voting rights.



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

11.3 Challenge to Validity. No action to challenge the validity of an adopted amendment may be brought more than one (1) year after the amendment is recorded.

## ARTICLE 12 MISCELLANEOUS

### 12.1 Notices.

(a) Association. All notices to the Association or the Board of Directors shall be sent care of the managing agent.

(b) Owners.

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

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

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


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

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

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

IN WITNESS WHEREOF, the Association has caused these Bylaws to be executed by its duly authorized officers on this 4<sup>th</sup> day of January, 2012.

  
\_\_\_\_\_  
, President

  
\_\_\_\_\_  
, Secretary