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**DOC # 20150017123**

Restrictive Page 1 of 20  
Russell Shirts Washington County Recorder  
05/20/2015 02:29:47 PM Fee \$ 48.00  
By FCS COMMUNITY MGMT



When recorded mail to:  
FCS Community Management  
3143 S. 840 East, Suite 325  
St. George, UT 84790-8689  
435-627-1776  
manager@hoaliving.com

**DECLARATION OF RESTRICTIVE COVENANTS FOR  
COTTAM COVE SUBDIVISION**

**SECTION 1. PREAMBLE**

KNOW ALL MEN BY THESE PRESENTS:

THAT, WHEREAS, the undersigned, being the owners of the following described real property located in St. George City, Washington County, State of Utah, to-wit:

All lots, as described in Exhibit A; according to the plat thereof, as recorded in the office of the County Recorder of Washington County.

Do hereby establish the nature of the use and enjoyment of said lots in said subdivision and do declare that all conveyance of said lots shall be made subject to the following conditions, restrictions and stipulations.

The name of the project is Cottam Cove Subdivision. Cottam Cove is not a cooperative.

The project shall be subject to Utah Code Annotated Title 57 – Chapter 8a.

**SECTION 2. PERIOD OF ADMINISTRATIVE CONTROL (DECLARANT CONTROL)**

1. Declarant. The Declarant shall be: CWI Enterprises LLC.
2. Period of Administrative Control (Declarant Control Period). A period of administrative control shall terminate when 100% of the lots created are conveyed to lot owners other than the declarant unless the declarant voluntarily surrenders via written instrument the right to appoint and remove members of the HOA board.
3. Actions During Administrative Control. All actions of the HOA must be approved by the declarant before they become effective.

**SECTION 3. RESIDENTIAL AREA COVENANTS**

1. Land Use and Building Type. No lot shall be used except for residential purposes, unless otherwise indicated on the plat map, as recorded with the Washington County Recorder's Office. No building shall be erected, altered, placed or permitted to remain on any lot other than one detached single-family dwelling not to exceed two stories and no garages shall be less than a three (3) car garage.
2. Architectural Control. No outbuilding or additions shall be erected, placed, nor altered on any lot until the construction plans and specifications and a plan showing the location of the structure have been approved by the Architectural Control Committee as to quality of workmanship and materials, harmony of external design with existing structures, and as to location with respect to topography and finish grade elevation.
3. Dwelling Quality and Size. All plans shall be approved by the Architectural Control Committee and each dwelling shall conform to St. George requirements. All single family detached dwellings shall have a minimum of a 1,700 square feet of finished floor space excluding the garage and the basement, basement meaning below grade.
4. City and Other Approval. Approval of any improvements by the Architectural Control Committee does not constitute approval by any governmental entity and shall not excuse or waive compliance with any requirement of such entity. By approving plans, the Architectural Control Committee assumes no responsibility for plan conformity to any other criteria other than the requirements of this Declaration of Restrictive Covenants.
5. Building Location.
  - (a) Building location must conform to the requirements of St. George.
  - (b) Detached Accessory Buildings. A detached accessory building may be permitted, subject to all St. George regulations and all of the covenants, conditions and restrictions imposed by this Declaration. The detached accessory building shall compliment in design and composition the dwelling placed in the Lot and in no event shall such accessory building be permitted with a height greater than the dwelling itself.
  - (c) Temporary Structures. No structure of a temporary character, such as, trailers, basement tent, shack, barn or other outbuildings shall be used on any lot at any time as a residence either temporarily or permanently. Modular homes are not permitted to be placed upon a building lot for permanent use.

- (d) For the purpose of this covenant eaves and steps shall not be considered as a part of a building, provided however, that this shall not be construed to permit any portion of a building on a lot to encroach upon any other lot.
6. Easements. Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat for the Cottam Cove. Within these easements, no structure, planting or other materials shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction or flow of drainage channels in the area, or which may obstruct or retard the flow of water through drainage channels in the easements. The easement area of each of the Lots and all improvements in it shall be maintained continuously by the Owner of the Lot, except for those improvements for which a public authority or utility company is responsible.
  7. Landscaping. Front Landscaping is required to be installed or bonded for on each lot prior to certificate of occupancy. The landscaping will include a minimum of a sprinkler system; front lawn; and five (5) one-gallon shrubs. At least 50% of the front yard, excluding the driveway, shall be in grass. The remaining non-grass portions of the front yard can be flowerbeds or mineral combination decorative scapes. Corner lots shall have finished landscaping following the, afore mentioned guidelines on both street sides of the lot to the property line.
  8. Lot 200, Entry & Landscape Features Maintenance. The Cottam Cove HOA shall be responsible for the maintenance of all common areas as defined in Exhibit B.
  9. Fencing. Only block fencing is allowed, matching the existing fence in the subdivision. Some consideration will be given for iron when used as gates and in open hillsides. Fencing is not allowed in the front yard.
  10. Nuisances. No noxious or offensive activity shall be carried on upon any lot nor shall anything be done thereon which may be or may become any annoyance or nuisance to the neighborhood. No clothes drying or storage of any articles, which are unsightly in will be permitted unless in enclosed areas designed for such purpose. No automobiles are to be stored on streets or front lots (driveways) unless they are in running condition, properly licensed and are being regularly used. Trailers, boats or other recreational vehicles shall only be stored on side lots if they are in running condition, properly licensed and are stored behind a gate behind the front line of the home.
  11. Garbage and Refuse Disposal. No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers. All storage or disposal of such material shall be kept in a clean and sanitary condition. Each lot and its abutting street are to be kept free of trash, weeds and other refuse by the lot owner. No unsightly materials or other objects are to be stored on any lot in view of the general public.

12. Livestock and Poultry. No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats, or other household pets may be kept provided that they are not kept, bred or maintained for any commercial purpose or food production and are restricted to pet owner's premises or on leash under handler's control.
13. Oil and Mining Operations. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained, or permitted upon any lot.
14. Slope and Drainage Control. No structure, planting or other material shall be placed or permitted to remain or other activities undertaken which may damage or interfere with established slope ratios, create erosion or sliding problems, or which may change the direction of flow of drainage channels or obstruct or retard the flow of water through drainage channels. The slope control areas of each lot and all improvements in them shall be maintained continuously by the owner of the lot, except for those improvements for which a public authority or utility company is responsible.
15. City Ordinances. All improvements on a lot shall be made, constructed and maintained, and all activities on a lot shall be undertaken, in conformity with all laws and ordinances of St. George City, and the State of Utah which may apply, including without limiting the generality of the foregoing, all zoning and land use ordinances.

#### SECTION 4. ARCHITECTURAL CONTROL COMMITTEE

1. Membership. A majority of the Architectural Control Committee ("Committee") may designate a representative to act for it. In the event of death or resignation of any member of the Committee, the remaining members of the Committee shall have full authority to select a successor. Neither the members of the Committee, nor its designated representative shall be entitled to any compensation for services performed pursuant to this covenant. The HOA Board may serve as the Committee. After the Administrative Control Period, the then record owners of a majority of the lots shall have the power through a duly recorded written instrument to change the membership of the Committee or to withdraw from the Committee or restore to it any of its powers and duties. The Architectural Control Committee is composed of:  
  
Scott Bigler  
Ryan Thacker  
Derek Wright
2. Procedure. The Committee's approval or disapproval as required in these covenants shall be in writing. The Owner must submit a set of formal plans, specification, and

site plan to the Committee before the review process can commence. In the event the committee, or its designated representatives, fails to approve or disapprove within 75 days after plans and specifications have been submitted to it, or in any event, if no suit to enjoin the construction has been commenced prior to the completion thereof, approval will not be required, and the related covenants shall be deemed to have been fully complied with.

#### **SECTION 5. GENERAL PROVISIONS**

1. Term. These covenants are to run with the land and shall be binding on all parties and all persons claiming under them for a period of fifty years from the date these covenants are recorded, after which time, said covenants shall be automatically extended for successive periods of ten years unless an instrument signed by a majority of the then owner of the lots has been recorded, agreeing to change said covenants in whole or in part.
2. Enforcement. Enforcement shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant either to restrain violation or to recover damages.
3. Severability. Invalidation of any one of these covenants by judgment or court order shall in no wise affect any of the other provisions, which shall remain in full force and effect.
4. Amendment. These covenants are to run with the land and shall be binding on all parties and all persons claiming under them unless an instrument signed by 67% (Sixty-Seven percent) of the then owners of the lots has been recorded, agreeing to change said covenants in whole or in part. However, prior to the expiration of the Period of Administrative Control, Declarant may unilaterally amend this Master Declaration for any purpose; provided, however, any such Amendment shall not materially adversely affect the substantive rights of any Owner or Member hereunder, nor shall it adversely affect title to any property without the consent of the affected Owner or Member.
5. Annexation/Expansion. Declarant shall exclusively hold any and all rights in regards to annexation and/or expansion of the project.

#### **SECTION 6. HOMEOWNERS ASSOCIATION**

1. The Homeowners Association ("HOA") shall consist of the owners of the individual lots in Cottam Cove Subdivision (hereafter "Members") and shall be incorporated (non-profit) as a legal entity bound by the laws of the State of Utah.

2. Bylaws governing the operation of the HOA shall be recorded as Exhibit C, no later than the date of the first lot sale.
3. The name of the HOA shall be the Cottam Cove Homeowners Association.
4. The Association has the right to assess against the Members for all maintenance and management needs of the Association; including any Reinvestment and Administrative Set-up Fees. Further, if any Neighborhood (meaning a group of lots that share maintenance items that only affect and benefit those lots – i.e. lots in a gated court) has costs related specifically to their Neighborhood, a Neighborhood Assessment shall also be assessed.
5. The Association has the right to hire legal council, post liens and other methods allowed by law to collect the required fees and enforce this Declaration as set up by the Association.
6. The Members shall elect a Board of Trustees (hereafter “Board”), as provided for in the Bylaws. The Board shall appoint Officers of the Association, which shall consist of at least a President, Vice President, and a Secretary/Treasurer. The Vice President shall assume the responsibilities of the President when the President is no longer physically able to perform or resigns. Officers serve at the pleasure of the Board and may be removed by a majority vote of the Board in a meeting called for that purpose. All Officers must be Members of the Association.
7. This association shall own lot 200, or the storm detention pond as recorded on the Cottam Cove Subdivision Plat in the Records office of Washington County and shall collect from each owner dues to maintain this lot and other Common Areas, and any other expenses concurred by the ownership and maintenance of the afore mentioned. Such “assessments” shall be subject to late fees, interest, collection costs, liens, attorney fees, foreclosure and/or any other methods allowed by law for collection of delinquent (as defined by the Board) assessments.
8. In accordance with this document and applicable state statutes, the Board may promulgate rules and regulations, including fines, to further the objectives of the Association.
9. As required by U.C.A. 57-8a-212(j)(i) (57-1-21(1)(a)(i) or (iv) the HOA appoints as Trustee:

ATTORNEY: JOHN RICHARDS

The declarant hereby conveys and warrants pursuant to U.C.A. Sections 57-1-20 and 57-8a-402 to attorney John Richards, with power of sale, the lot and all improvements to the lot for the purpose of securing payment of assessments under the

terms of the declaration. The association may change attorneys at any time by an action of the board.

CWI Enterprises LLC

By: [Signature]  
Derek Wright

State of Utah )  
County of Salt Lake )

On the 14 day of May, 2015 personally appeared before me Christie Jo Young, who being by me duly sworn, did say that he is a Manager of CWI Enterprises LLC, a corporation, and that said instrument was signed in behalf of said corporation by authority of its by-laws (or by a resolution of its board of directors) and said Derek Wright acknowledged to me that said corporation executed the same.

[Signature]  
Notary Public

Residing at: 53 W. Settlement Circle, Midvale UT 84047  
My Commission Expires: 04/08/2019



**EXHIBIT A**

All lots, according to the plat thereof, as recorded in the office of the County Recorder of Washington County:





<p><b>BUSH &amp; GUDGELL, INC.</b>                  ENGINEERS &amp; ARCHITECTS                  200 W. BROAD ST., SUITE 200                  WASHINGTON, MO 64791-1919                  PHONE: (417) 253-1100                  FAX: (417) 253-1101                  WWW.BUSHANDGUDGELL.COM</p>	<p><b>COTTAM COVE PHASE 1</b>                  LOTS 2 &amp; 2E 1/4 OF SECTION 16, TOWNSHIP 48 SOUTH, RANGE 15 WEST,                  SALT LAKE BASE AND MERIDIAN</p>
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**MORTGAGEE'S CONSENT TO RECORD**

HEREIN IS MY ENTIRE AND SOLE AGREEMENT TO THE MORTGAGEE'S CONSENT TO RECORD FOR SAID TRACT OF LAND TO BE USED FOR THE LINES AND PURPOSES DESCRIBED IN THE PLAN TO RECORDING PLAT, RECORDING OF COVENANTS, CONDITIONS AND RESTRICTIONS AND JUDICIAL DECISIONS AND CONVEYANCES.

DUSTINE BUCKER, GENERAL PARTNER

**MORTGAGEE'S ACKNOWLEDGMENT**

STATE OF \_\_\_\_\_ COUNTY OF \_\_\_\_\_

ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_ 2015, I, \_\_\_\_\_, PERSONALLY APPEARED BEFORE ME, CHRISTINE MARY BUCKER, A MORTGAGEE, WHO BEING BY ME DULY SWORN IN, DO SAY THAT THE FOREGOING INSTRUMENT IS THE ENTIRE AND SOLE AGREEMENT OF SAID PARTY TO THE MORTGAGEE'S CONSENT TO RECORD FOR SAID TRACT OF LAND TO BE USED FOR THE LINES AND PURPOSES DESCRIBED IN THE PLAN TO RECORDING PLAT, RECORDING OF COVENANTS, CONDITIONS AND RESTRICTIONS AND JUDICIAL DECISIONS AND CONVEYANCES.

DEED NAME: \_\_\_\_\_  
 DEED NUMBER: \_\_\_\_\_  
 COMMISSION NUMBER: \_\_\_\_\_  
 I AM A MORTGAGEE UNDER THE  
 STATE OF MISSOURI  
 EXPIRES ON \_\_\_\_\_

**MORTGAGEE'S CONSENT TO RECORD**

HEREIN IS MY ENTIRE AND SOLE AGREEMENT TO THE MORTGAGEE'S CONSENT TO RECORD FOR SAID TRACT OF LAND TO BE USED FOR THE LINES AND PURPOSES DESCRIBED IN THE PLAN TO RECORDING PLAT, RECORDING OF COVENANTS, CONDITIONS AND RESTRICTIONS AND JUDICIAL DECISIONS AND CONVEYANCES.

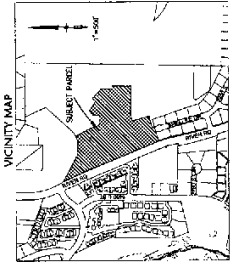
MANAGER/AGREER

**MORTGAGEE'S ACKNOWLEDGMENT**

STATE OF \_\_\_\_\_ COUNTY OF \_\_\_\_\_

ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_ 2015, I, \_\_\_\_\_, PERSONALLY APPEARED BEFORE ME, \_\_\_\_\_, WHO BEING BY ME DULY SWORN IN, DO SAY THAT I AM THE MANAGER OF INFINITY MANAGEMENT SERVICES, L.P., A MORTGAGEE OF SAID TRACT OF LAND DOES HEREBY GIVE CONSENT FOR SAID MORTGAGEE'S CONSENT TO RECORD FOR SAID TRACT OF LAND TO BE USED FOR THE LINES AND PURPOSES DESCRIBED IN THE PLAN TO RECORDING PLAT, RECORDING OF COVENANTS, CONDITIONS AND RESTRICTIONS AND JUDICIAL DECISIONS AND CONVEYANCES.

DEED NAME: \_\_\_\_\_  
 DEED NUMBER: \_\_\_\_\_  
 COMMISSION NUMBER: \_\_\_\_\_  
 I AM A MORTGAGEE UNDER THE  
 STATE OF MISSOURI  
 EXPIRES ON \_\_\_\_\_



**GENERAL NOTES**

1. A 10.00 FOOT WIDE PUBLIC UTILITY AND DRAINAGE EASEMENTS ARE HEREBY CREATED ALONG ALL LINES AND AREAS SHOWN ON THIS PLAN AND NEAR LOT LINES BY THE RECORDING OF THIS PLAT UNLESS OTHERWISE NOTED.
2. ALL UTILITIES ARE SHOWN BY THE UTILITY CONDUIT SYSTEM OF 1983 (1984) SOUTH OF LOT 2 AND 2E 1/4. UTILITIES FOR THE SECTIONAL LOTS UNITS AS SHOWN.
3. THE FOLLOWING MINIMUM WIDTHS SHALL BE MAINTAINED AS FOR ST. GEORGE CITY ZONING ORDINANCE 20.07 FRONT SETBACK A 10.00' AND ALSO SIDE SETBACK A 10.00' REAR 10.00' SETBACK, A 20.00' REAR SETBACK FOR LOTS ALONG PARK ROAD.
4. ALL UTILITIES SHALL BE MAINTAINED AT ALL TIMES AND SHALL BE MAINTAINED TO BE SET BACK TO MAINTAIN A 10.00' FRONT SETBACK.
5. A GEOLOGICAL INVESTIGATION WAS PERFORMED BY ABC. THE INVESTIGATION RESULTS AND RECOMMENDATIONS FOR THE CONSTRUCTION OF FOUNDATIONS, FOUNDATION DESIGN AND CONSTRUCTION SHALL BE OBTAINED FROM ABC. THE CITY OF ST. GEORGE, MISSOURI, HAS REVIEWED THE INVESTIGATION AND THE DESIGNER AND A COPY ON FILE WITH THE CITY OF ST. GEORGE, MISSOURI, BUILDING AND SAFETY DEPARTMENT. ALL UTILITIES SHALL BE MAINTAINED TO BE SET BACK TO MAINTAIN A 10.00' FRONT SETBACK.
6. TO BE ON THE N.E. CORNER OF THE TRACT, A 10.00' SIDE SETBACK SHALL BE MAINTAINED BY THE HOMEOWNER'S ASSOCIATION.
7. LANDSCAPE AREA ALONG PARK ROAD MAINTAINED BY THE HOMEOWNER'S ASSOCIATION.
8. A 30.00 FOOT UTILITY EASEMENT EXISTS ALONG THE WESTERLY LOT LINE OF LOT 22 AND THE WESTERLY LOT LINE OF LOT 20 AS SHOWN.
9. THE ASSOCIATION SHALL BE RESPONSIBLE FOR REPAIRING, RESTORING OR REPLACING LANDSCAPING AND PLANTINGS IN THE AREA OF THE UTILITY EASEMENT. THE ASSOCIATION SHALL BE RESPONSIBLE FOR REPAIRING, RESTORING OR REPLACING PUBLIC WATER, SEWER, DRAINAGE, AND POWER IMPROVEMENTS.
10. IN ADDITION TO REMEDIATION OF THE UTILITY EASEMENT, THE ASSOCIATION SHALL BE RESPONSIBLE FOR REPAIRING, RESTORING OR REPLACING LANDSCAPING AND PLANTINGS IN THE AREA OF THE UTILITY EASEMENT AS MAY BE NECESSARY FROM THE UTILITY EASEMENT. THE ASSOCIATION SHALL BE RESPONSIBLE FOR REPAIRING, RESTORING OR REPLACING LANDSCAPING AND PLANTINGS IN THE AREA OF THE UTILITY EASEMENT AS MAY BE NECESSARY FROM THE UTILITY EASEMENT. THE ASSOCIATION SHALL BE RESPONSIBLE FOR REPAIRING, RESTORING OR REPLACING LANDSCAPING AND PLANTINGS IN THE AREA OF THE UTILITY EASEMENT AS MAY BE NECESSARY FROM THE UTILITY EASEMENT.
11. THE ASSOCIATION SHALL BE RESPONSIBLE FOR REPAIRING, RESTORING OR REPLACING LANDSCAPING AND PLANTINGS IN THE AREA OF THE UTILITY EASEMENT AS MAY BE NECESSARY FROM THE UTILITY EASEMENT. THE ASSOCIATION SHALL BE RESPONSIBLE FOR REPAIRING, RESTORING OR REPLACING LANDSCAPING AND PLANTINGS IN THE AREA OF THE UTILITY EASEMENT AS MAY BE NECESSARY FROM THE UTILITY EASEMENT.
12. THE ASSOCIATION SHALL BE RESPONSIBLE FOR REPAIRING, RESTORING OR REPLACING LANDSCAPING AND PLANTINGS IN THE AREA OF THE UTILITY EASEMENT AS MAY BE NECESSARY FROM THE UTILITY EASEMENT. THE ASSOCIATION SHALL BE RESPONSIBLE FOR REPAIRING, RESTORING OR REPLACING LANDSCAPING AND PLANTINGS IN THE AREA OF THE UTILITY EASEMENT AS MAY BE NECESSARY FROM THE UTILITY EASEMENT.



LOCATED IN  
 NORTHWEST & SOUTHEAST 1/4 OF SECTION 16, TOWNSHIP 48 SOUTH, RANGE 15 WEST,  
 SALT LAKE BASE AND MERIDIAN

**EXHIBIT B**

All common areas:

**EXHIBIT C - Bylaws**

**BYLAWS  
OF  
COTTAM COVE SUBDIVISION  
HOMEOWNERS ASSOCIATION,  
A Planned Unit Development**

The following are the Bylaws of the COTTAM COVE SUBDIVISION HOMEOWNERS ASSOCIATION.

ARTICLE I

PLAN OF LOT OWNERSHIP AND INCORPORATION

1. Submission. These are the Bylaws referred to in the foregoing Declaration of Restrictive Covenants of COTTAM COVE SUBDIVISION, a Planned Unit Development (the "Declaration"), which is located in Washington County, State of Utah. These Bylaws shall govern the administration of the Project and Association.
2. Organizational Form. If the Association is incorporated under the laws of the State of Utah, then these Bylaws shall also function and operate as the Bylaws of the corporation.

ARTICLE II

ASSOCIATION

1. Composition. The association of lot owners is a mandatory association consisting of all Owners.
2. Annual Meeting. The annual meeting of the Association shall be held annually after termination of the Period of Declarant Control.
3. Special Meetings. Special meetings of the Association may be called by the President of the Association, any two (2) members of the Board, or by the written petition of at least twenty-five percent (25%) of the Owners.
4. Place of Meeting. Meetings of the Association shall be held at the principal office of the Association or at such other suitable place as may be designated by the Board from time to time and stated in the notice of meeting.
5. Notice of Meeting. It shall be the duty of the Secretary or their designated representative to hand deliver or mail to each owner at his last known address, by regular U.S. mail postage prepaid, a notice of (a) each annual meeting and special meeting of the Association not less than ten (10) and not more than sixty (60) days in advance of such meeting. The mailing

of a notice of meeting in the manner provided in this Section shall be considered service of notice.

6. Informal Action by Members. Any action that is required or permitted to be taken at a meeting of the Members may be taken without a meeting, if a consent in writing, setting forth the action so taken, shall be signed by a majority of the Members entitled to vote with respect to the subject matter thereof.

7. Proxies. The votes appertaining to any Lot may be cast pursuant to a proxy or proxies duly executed by or on behalf of the Lot Owner, or in cases where the Owner is more than one person, by or on behalf of all such persons. Any proxy shall be void if it is not dated, if it purports to be revocable without notice, or if it is not signed by a person having authority, at the time of the execution thereof, to execute deeds on behalf of that person. Unless it expressly states otherwise, a proxy shall terminate automatically (a) if the Owner attends the meeting in person, (b) it is revoked in writing and written notice of the revocation is given to the Secretary of the Association prior to the meeting, and (c) upon the adjournment of the first meeting held on or after the date of that proxy. Each proxy must be filed with the Association prior to the meeting. Only individual Owners or the legal representative of an institutional Owner may be proxies.

8. Quorum Voting. Those Owners present, either in person or by proxy, at a meeting shall constitute a quorum for the adoption of decisions.

9. Order of Business. The order of business at all meetings of the Association shall be determined by the Board.

10. Conduct of Meeting. The President shall, or in his absence the Vice-President, preside over all meetings of the Association; and the Secretary shall keep the minutes of the meeting as well as record of all transactions occurring thereat.

### ARTICLE III

#### BOARD

1. Powers and Duties. The affairs and business of the Association shall be managed by the Board. The Class B Member shall be entitled to appoint members of the Board of Directors during the Period of Declarant Control. The Board shall have all of the powers and duties necessary for the administration of the affairs of the Association in accordance with the provisions of the Declaration and may do all such acts and things necessary to operate and maintain the Project. The Board shall have the power from time to time to adopt any Rules and Regulations deemed proper for the exercise of its management powers. The Board may delegate its authority to a manager or managers. Subject to any limitations or provisions contained in the Declaration, the Board shall be responsible for at least the following:

a) Preparation of an annual budget, in which shall be established each Owner's share of the Common Expenses.

b) Establishing the Assessment of each Owner, the means and methods of collecting Assessments from the Owners, and the method of payment. Unless otherwise determined by the Board, each Owner's common area fee may be payable in equal monthly installments, due and payable in advance on the first day of each month of each year. However, in the event an Owner fails to make an installment payment in a timely manner or the Association deems itself insecure, then the entire annual Assessment may be accelerated by the Board and shall thereafter be automatically due and payable without further notice. The Board may subsequently elect to de-accelerate the obligation in whole or in part.

c) Providing for the operation, care, upkeep, replacement, maintenance, and regulation of all the Common Areas and Facilities.

d) Designating, hiring, and dismissing the personnel necessary to operate and maintain the Project.

e) Collecting and depositing the Assessments.

f) Making, amending, and enforcing the Rules and Regulations.

g) Opening and closing of bank accounts for and in behalf of the Association, and designating the signatories required therefore.

h) Making, or contracting for the making of, repairs, additions, and improvements to, or alterations of, the Property and repairs to, and restoration of, the Property, in accordance with the Declaration and other provisions of the Bylaws, after damage or destruction by fire or other casualty.

i) Enforcing by legal means the Project Documents.

j) Purchasing and maintaining insurance.

k) Paying the cost of all services rendered to the Project and not billed directly to Owners or individual Lots.

l) Keeping books and records with detailed accounts of the receipts and expenditures affecting the Property, and the administration of the Project, specifying the maintenance and repair expenses of the Common Areas and any other expenses incurred. All books and records shall be kept in accordance with generally accepted accounting practices, and the same, upon a resolution approved by a majority of the Members of the Association or majority of the Board, shall be formally audited by an outside auditor employed by the Board who shall not be a resident of the Project or an Owner therein. The cost of such Audit shall be a Common Expense. Copies of books and records, financial statements, reports, compilations, and

Audits shall be supplied to any first mortgagee of any Lot in the Project who requests the same in writing from the Secretary. A mortgage holder, at its expense, may have an Audited financial statement prepared at any time.

m) Providing, where necessary, all water, electricity, and other necessary utility services for the Common Areas.

n) Paying any amount necessary to discharge any mechanic's lien or other encumbrance levied against the Property, or any part thereof, which may in the opinion of the Board constitute a lien against the Property or against the Common Areas, rather than merely against the particular Lot. When one or more Owners are responsible for the existence of such a lien, they shall be jointly and severally liable for the cost of discharging it and any costs incurred by the Board by reason of said lien or liens shall be specially assessed to said Owners and shall, until paid by said Owners, constitute a lien on the interest of said Owners in the Property which lien may be perfected and foreclosed in the manner provided in the Declaration.

o) Giving notice of and conducting hearings on alleged violations of the Project Documents, sanction, cite, or fine Owners, occupants and residents.

p) Making emergency repairs.

q) At the sole expense and risk of the owner, impounding, immobilizing, towing or otherwise removing any motor vehicle parked, stored or standing in violation of the parking rules and regulations or in an unauthorized area.

r) Establishing and collecting user fees.

s) Doing such other things and acts necessary to accomplish the foregoing and not inconsistent with the Declaration or Bylaws, or to do anything required by a proper resolution of the Board or Association.

2. Composition of Board. The Board shall be composed of three (3) members. The Class B Member shall be entitled to appoint members of the Board of Directors during the Class B Control Period.

3. Election and Term of Office of the Board. The term of office of membership on the Board shall be three (3) years. At the first Annual Meeting after the expiration of the Period of Declarant's Control, the terms of the Board shall be staggered so that the terms of one-third of the Board will expire and successors will be elected at each annual meeting of the Association as provided in these Bylaws. Thereafter, at such annual meetings, successors to the Board whose terms then expire shall be elected to serve terms of three (3) years.

4. First Meeting. The first meeting of the members of the Board shall be following the annual meeting of the Association or at such other time and place designated by the Board.

5. Regular Meetings. Regular meetings of the Board shall be held from time to time and at such time and place as shall be determined by a majority of the members of the Board.

6. Special Meetings. Special meetings of the Board may be called by the President, or two of the members on at least forty-eight (48) hours prior notice to each member. Such notice shall be given personally, by regular U.S. Mail postage prepaid, electronically (including, but not limited to, email, text message, etc.) or by telephone, and such notice shall state the time, place and purpose of the meeting. Any meeting attended by all members of the Board shall be valid for any and all purposes.

7. Waiver of Notice. Before or at any meeting of the Board, any member may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a member at any meeting of the Board shall constitute a waiver of notice. If all the members are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

8. Board's Quorum. At all meetings of the Board, a majority of the members then in office shall constitute a quorum for the transaction of business, and the acts of the majority of all the Board members present at a meeting at which a quorum is present shall be deemed to be the acts of the Board.

9. Vacancies. Vacancies in the Board caused by any reason other than removal of a member by a vote of the Association shall be filled by vote of the majority of the remaining members of the Board at a special meeting of the Board held for that purpose after the occurrence of any such vacancy, even though the total members remaining may constitute less than a quorum of the Board; and each person so elected shall be a member for the remainder of the term of the member so replaced. A vacancy created by the removal of a member by a vote of the Association shall be filled by the election and vote of the Association.

10. Removal of Board Member. A member of the Board may be removed with or without cause, and his successor elected, at any duly called regular or special meeting of the Association by an affirmative vote of a majority of all the members of the Association. Any member whose removal has been proposed by the Owners shall be given at least thirty days notice of the calling of the meeting and the purpose thereof and an opportunity to be heard at the meeting. Any Board Member who misses thirty three percent (33%) or more of the Board Meetings or who misses three (3) consecutive meetings, in any calendar year, shall be automatically removed from the Board.

11. Conduct of Meetings. The President shall preside over all meetings of the Board and the Secretary shall keep minutes of the Board meetings.

a) Open Meetings Policy. A portion of each meeting of the Board shall be open to all members of the Association, but Owners other than members of the Board may not participate in any discussion or deliberation unless expressly so authorized by a majority of a quorum of the Board.



b) Executive Session. The Board may, with approval of a majority of a quorum, adjourn a meeting and reconvene in an Executive Session to discuss and vote upon private, confidential, sensitive or personnel matters, litigation, and orders of business of a similar nature. The nature of any and all business to be considered in an Executive Session shall first be announced in open session.

c) Action Without A Formal Meeting. Any action to be taken at a meeting of the Board may be taken without a meeting if approved by all members of the Board.

12. Compensation. Board members shall not be compensated for their services as such, but shall be reimbursed for all expenses reasonably incurred in connection with Board business and approved by the Board.

#### ARTICLE IV

##### OFFICERS

1. Designation. The principal officers of the Association shall be a President, a Vice-President, and a Secretary/Treasurer, all of whom shall be elected by and from among the Board. The Board may appoint assistant secretaries and such other officers as in its judgment may be necessary. Two or more offices may be held by the same person, except that the President shall not hold any other office.

2. Election of Officers. The officers of the Association shall be elected annually by the Board. Any vacancy in an office shall be filled by the Board at a regular meeting or special meeting.

3. Removal of Officers. The officers shall hold office until their respective successors are chosen and qualify in their stead. Any officer elected or appointed by the Board may be removed at any time by the affirmative vote of a majority of the Board, and his successor may be elected at any regular meeting of the Board, or at any special meeting of the Board called for such purposes.

4. President. The President shall be the chief executive officer; he shall preside at meetings of the Association and the Board; he shall have general and active management of the business of the Board and shall see that all orders and resolutions of the Board are carried into effect. He shall have all of the general powers and duties which are usually vested in or incident to the use of president of a stock corporation organized under the laws of the State of Utah.

5. Vice-President. The Vice-President shall, in the absence or disability of the President, perform the duties and exercise the powers of the President, and shall perform such other duties as the Board or the President shall prescribe. If neither the President nor the Vice President is able to act, the Board shall appoint a member of the Board to do so on an interim basis.

6. Secretary. The secretary shall attend all meetings of the Board and all meetings of the Association and record all votes in the minutes. He shall give, or cause to be given, notices for all meetings of the Association and the Board and shall perform such other duties as may be prescribed by the Board. The Secretary shall compile and keep current at the principal office of the Association, a complete list of the Owners and their last known post office addresses.

7. Treasurer. The Treasurer shall have custody of all funds and securities that are not under the control of the Managing Agent, and with the assistance of the Managing Agent, shall keep full and accurate records of receipts and disbursements, shall prepare all required financial data, and shall deposit all monies and other valuable effects in such depositories as may be designated by the Board. He shall, with the assistance of the Managing Agent disburse funds as ordered by the Board, taking proper vouchers for such disbursements, and shall render to the President and members, at the regular meetings of the Board, or whenever they may require it, an account of all his transactions as Treasurer and of the financial condition of the Project.

8. Compensation. Officers shall not be compensated for their services as such, but shall be reimbursed for all expenses reasonably incurred in connection with Board business and approved by the Board.

#### ARTICLE V

##### FISCAL YEAR

The fiscal year of the Association shall be the calendar year consisting of the twelve (12) month period commencing on January 1 of each year terminating on December 31 of the same year. A separate budget year may be implemented by the Board for ease in communicating at the Annual Meeting the past year's financials and upcoming year's budget. The fiscal and budget year herein established shall be subject to change by the Board should it be deemed advisable or in the best interests of the Association.

#### ARTICLE VI

##### AMENDMENT TO BYLAWS

1. Amendments. These Bylaws may be modified or amended either (a) by the affirmative vote of a majority of the members of the Association present in person or by proxy at a meeting called for that purpose or (b) pursuant to a written instrument of consent duly executed by a majority of the members of the Association provided all of the written consents are obtained within a ninety day period.

2. Recording. An amendment to these Bylaws shall become effective immediately upon recordation in the Office of the County Recorder of Salt Lake County, State of Utah.

ARTICLE VII

NOTICE

1. Manner of Notice. All notices, demands, bills, statements, or other communications provided for or required under these Bylaws shall be in writing and shall be deemed to have been duly given if delivered personally or sent by regular U.S. Mail postage pre-paid, a) if to an Owner, at the address of his Lot and at such other address as the Owner may have designated by notice in writing to the Secretary; or b) if to the Board or the Manager, at the principal office of the Manager or at such other address as shall be designated by notice in writing to the Owners pursuant to this Section.

2. Waiver of Notice. Whenever any notice is required to be given under the provisions of the statutes, the Declaration, or of these Bylaws, a waiver thereof, in writing, signed by the person or persons entitled to such notice, whether signed before or after the time stated therein, shall be deemed equivalent thereto, unless such waiver is ineffective under the provisions of the Declaration.

ARTICLE VIII

COMPLIANCE, CONFLICT, AND MISCELLANEOUS PROVISIONS

1. Conflict. These Bylaws are subordinate and subject to all provisions of the Declaration. All of the terms hereof, except where clearly repugnant to the context, shall have the same meaning as they are defined to have in the Declaration. In the event of any conflict between these Bylaws and the Declaration, the provision of the Declaration shall control.

2. Waiver. No restriction, condition, obligation, or provision of these Bylaws shall be deemed to have been abrogated or waived by reason of any failure or failures to enforce the same.

3. Captions. The captions contained in these Bylaws are for convenience only and are not part of these Bylaws and are not intended in any way to limit or enlarge the terms and provisions of these Bylaws.

4. Interpretation. Whenever in these Bylaws the context so requires, the singular number shall refer to the plural and the converse; and the use of any gender shall be deemed to include both masculine and feminine; and the term "shall" is mandatory while the term "may" is permissive.

