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REC FOR: BELLE ISLE HOA

**AMENDED AND RESTATED DECLARATION  
of  
COVENANTS, CONDITIONS AND RESTRICTIONS  
for  
BELLE ISLE HOMEOWNERS ASSOCIATION  
A UTAH PLANNED UNIT DEVELOPMENT**

February 2012

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- Exhibit "A" Legal Description
- Exhibit "B" Articles of Incorporation
- Exhibit "C" Bylaws
- Exhibit "D" 3<sup>rd</sup> Amended Plat Map of Belle Isle
- Exhibit "E" 4<sup>th</sup> Amended Plat Map of Belle Isle

**AMENDED AND RESTATED DECLARATION  
of  
COVENANTS, CONDITIONS AND RESTRICTIONS  
for  
BELLE ISLE HOMEOWNERS ASSOCIATION  
A UTAH PLANNED UNIT DEVELOPMENT**

This Amended and Restated Declaration of Covenants, Conditions and Restrictions for Belle Isle Homeowners Association ("Restated Declaration"), a Utah planned unit development, is made and executed on the date shown below after being voted on and approved by the Owners of Lots in Belle Isle.

(Belle Isle is known on the Weber County Records as Roylance Farms P.R.U.D, and due to the impossibility of changing all the legal descriptions, trust deeds, and various legal documents associated with ownership of property within Belle Isle, the titles to property within Belle Isle will continue to carry the name Roylance Farms but shall be referred to herein as Belle Isle and shall be managed by the Belle Isle Homeowners Association).

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**RECITALS:**

WHEREAS, the "Declaration of Covenants, Conditions and Restrictions for Belle Isle, a Utah Planned Unit Development" ("Enabling Declaration") was recorded December 2, 1999, in book 2046, beginning on page 2259, in the records of the Weber County Recorder's Office, as Entry Number 1676978; and

WHEREAS, the Enabling Declaration was amended by the "First Amendment to Declaration of Covenants, Conditions and Restrictions for Belle Isle, Planned Unit Development in Weber County, Utah" ("First Amendment"), which was recorded July 27, 2000, in book 2083, beginning on page 2022, in the records of the Weber County Recorder's Office, as Entry Number 1718147; and

WHEREAS, the Enabling Declaration was amended by the "Amendment to Declaration of Covenants, Conditions and Restrictions for Belle Isle, A Planned Unit Development in Weber County, Utah" ("Second Amendment"), which was recorded July 10, 2002, in book 2245, beginning on page 2426, in the records of the Weber County Recorder's Office, as Entry Number 1860764; and

WHEREAS, the real property that is the subject of this Restated Declaration is situated in and upon that certain real property located in Weber County, State of Utah, as specifically described in Exhibit "A", attached hereto and incorporated herein by this reference, including the Common Area that is appurtenant to each Unit as shown on the Original Plat Map as recorded in the office of the County Recorder for Weber County, State of Utah; and

WHEREAS, The Lot Owners in Belle Isle are desirous to create the Belle Isle Homeowners Association, Inc., a Utah non-profit corporation ("Association"), which will be created by filing Articles of Incorporation with the Utah Division of Corporations and Commercial Code, which Association shall operate for the purpose of managing the Common Area and enforcing the provisions of the Governing Documents and any amendments thereto. The Association will be the governing body of Belle Isle Homeowners Association and will operate in accordance with this Restated Declaration, any amendments to this Restated Declaration, the Articles of Incorporation (Exhibit "B" attached hereto and incorporated herein by this reference) and the Association Bylaws. By adopting this Restated Declaration the Owners approve the incorporation of the previously existing Owners Association and the Bylaws; and

WHEREAS, the Association is organized to exercise the rights, powers, and duties set forth in this Restated Declaration and to administer and enforce the covenants and restrictions contained herein. The real property that is subject to this Restated Declaration (the "Property") is located in North Ogden, Weber County, Utah, and is more particularly described in Exhibit "A", attached hereto; and

WHEREAS, the Owners have determined that it is their best interest to subdivide and convey the Common Area adjoining their Dwelling Units to the adjoining Lot Owner, thereby reducing the amount of Common Area that will be owned and maintained in Belle Isle and reducing the overall cost of maintenance to the Association; and, to accomplish this objective, the Owners desire to amend the Original Plat Map to eliminate a majority of the Common Area that is currently owned in common by all the Owners and the Association, and desire to transfer and convey a majority of the Common Area to the Lot Owner whose Lot is contiguous to the Common Area, as shown on the Plat Maps (Exhibits "D" and "E"); and

WHEREAS, in consideration of the foregoing, the Enabling Declaration, the First Amendment and the Second Amendment are hereby amended, restated and replaced in their entirety by this single consolidated Restated Declaration, which subjects the Property to a common scheme and plan for the possession, use, enjoyment, repair, maintenance, restoration, and improvement of the Property.

WHEREAS, the Project is to be known as Belle Isle (and was formerly known as Coldwater Creek and Roycastle Farms P.R.U.D.).

NOW, THEREFORE, for the foregoing purposes, the Owners of Units belonging to the Association declare that the Property shall be subject to this Restated Declaration and that the Property is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens hereinafter set forth.

## Article 1

### DEFINITIONS

When used in this Restated Declaration (including in that portion hereof entitled "Recitals"), each of the following terms shall have the meaning indicated unless the context clearly requires otherwise.

- 1.1 **Additional Charges** shall mean and refer cumulatively to all collection and administrative costs, including but not limited to all attorney fees, late charges, fines, service fees, filing and recordation expenses, default interest and other similar costs actually incurred or assessed by the Association.
- 1.2 **Articles of Incorporation** shall mean and refer to the Articles of Incorporation of the Association of Lot Owners of Belle Isle on file or to be filed with the Utah Department of Commerce (attached hereto as Exhibit "B").
- 1.3 **Assessments** shall mean and refer to the allocation of Common Expenses imposed upon the various Lots and Lot Owners.
- 1.4 **Association** shall mean the association of Lot Owners in the Project acting as a group, and/or subsequent to the filing of the Articles of Incorporation for the Belle Isle Homeowners Association, Inc., a Utah non-profit corporation, it shall also refer to Belle Isle Homeowners Association, Inc.
- 1.5 **Board or Board of Directors** shall mean and refer to those Lot owners duly elected and qualified to manage, operate and regulate the Association. Following the filing of the articles of incorporation of the Association, whenever the term Board is used herein, it shall mean and refer to the Board.
- 1.6 **Building** shall mean and refer to any of the structures constructed in the Project, which structures shall consist of residential dwelling units.
- 1.7 **Bylaws** shall mean and refer to the document attached to this Restated Declaration as Exhibit "C".
- 1.8 **Capital Improvement** shall mean and refer to each significant fixed physical asset within the Project, included in its original design or construction, or subsequently added to the Project, intended to extend its useful life and/or enhance, upgrade and improve the utility, value or beauty of the Common Areas or Facilities. The term Capital Improvement shall be deemed to include the repair, maintenance or replacement of said capital assets, such as the Project's utility systems, gazebo(s), walking path(s), patio structures, picnic facilities, entry monument, private ways, area lighting, fences and common sidewalks.
- 1.9 **Capital Improvement Expenses** shall mean and refer to all expenses related to the design, purchase, installation, construction, maintenance, repair or replacement of a Capital Improvement.

- 1.10 **Common Areas or Common Areas and Facilities** shall mean and refer to all real property located within the Project in which the Association owns an interest for the common use and benefit of its Members, their successors, assigns, tenants, families, guests and invitees, including but not limited to the following items:
- 1.10.1 The real property and interests in real property submitted hereby, including the entirety of the Tract and all improvements constructed thereon, excluding the individual Lots.
  - 1.10.2 All Common Areas and Facilities designated as such in the Plat Maps attached as Exhibits "D" and "E".
  - 1.10.3 All utility installations and all equipment connected with or in any way related to the furnishing of utilities to the Project and intended for the common use of the Common Area;
  - 1.10.4 All portions of the Project not specifically included within the individual Lots; and
  - 1.10.5 All other parts of the Project normally in common use or necessary or convenient to the use, existence, maintenance, safety, operation or management of the Property owned by the Association for the common benefit of its Members.
- 1.11 **Common Expense** shall mean and refer to:
- 1.11.1 All sums lawfully assessed against the Lot Owners;
  - 1.11.2 Expenses of administration, maintenance, repair, or replacement of the Common Areas and Facilities;
  - 1.11.3 Expenses allocated by the Association;
  - 1.11.4 Expenses agreed upon as common expenses by the Association; and
  - 1.11.5 Expenses declared common expenses by the Project Documents.
- 1.12 **Community Wide Standard** shall mean and refer to the standard of conduct, maintenance, or other activity generally prevailing in the community as determined by the Board from time to time.
- 1.13 **Dwelling Unit or Unit** shall mean and refer to the single family townhomes, living units, dwelling units or residential structures constructed upon each Lot.
- 1.14 **Eligible Insurer** shall mean and refer to an insurer or governmental guarantor of a mortgage or trust deed who has requested notice in writing of certain matters from the Association in accordance with this Restated Declaration.
- 1.15 **Eligible Mortgagee** shall mean and refer to a mortgagee, beneficiary under a trust deed, or



lender who has requested notice in writing of certain matters from the Association in accordance with this Restated Declaration.

- 1.16 **Eligible Votes** shall mean and refer to those votes available to be cast on any issue before the Association or the Board. A vote which is for any reason suspended is not an "Eligible Vote".
- 1.17 **Guest** shall mean and refer to a visitor, invitee or person whose temporary presence within the Project is approved by or is at the request of a particular resident.
- 1.18 **Improvement** shall mean and refer to all existing physical structures and appurtenances to the Property of every kind and type, including but not limited to all buildings, dwelling units, fixtures, plumbing, electrical, heating, air conditioning and utility systems, roads, private ways, walkways, driveways, parking areas, fences, walls, stairs, landscaping, trees, shrubs, bushes and green space.
- 1.19 **Land** shall mean and refer to all of the real property within the Project and subject to this Restated Declaration.
- 1.20 **Lot** shall mean and refer to a portion of the Property, other than the Common Area, intended for any type of independent ownership and use as may be set out in this Restated Declaration and as shall be shown on the Plat Maps filed with this Restated Declaration or amendments thereto.
- 1.21 **Lot Owner** shall mean and refer to the person who is the owner of record, in the office of the county Recorder of Weber County, Utah, of a fee or an undivided fee interest in a Lot. The term Lot Owner does not mean or include a mortgagee or a beneficiary or trustee under a deed of trust unless and until such party has acquired title pursuant to foreclosure or any arrangement or proceeding in lieu thereof.
- 1.22 **Majority** shall mean and refer to those eligible votes of Owners or other groups as the context may indicate totaling more than fifty percent (50%) of the total eligible number.
- 1.23 **Manager** shall mean and refer to the person or entity appointed or hired to manage and operate the Project.
- 1.24 **Map or Maps** shall mean and refer to the Plat Maps filed in connection with this Restated Declaration (or shortly thereafter) in the office of the County Recorder of Weber County, Utah, a copy of which are attached as Exhibits "D" and "E".
- 1.25 **Member** shall mean and refer to an Owner obligated, by virtue of his Ownership, to be a shareholder in the Association.
- 1.26 **Mortgage** shall mean and refer exclusively to either a first mortgage or first deed of trust on any Lot, but shall not mean or refer to a seller under a uniform real estate contract, land sales contract, or an executory contract of sale.

- 1.27 **Mortgagee** shall mean and refer exclusively to a mortgagee under either a first mortgage or a beneficiary under a first deed of trust on any Lot, but shall not mean or refer to a seller under a uniform real estate contract, land sales contract, or an executory contract of sale.
- 1.28 **Owner** shall mean and refer to the Lot Owner.
- 1.29 **Original Plat Map** shall mean that plat map recorded in conjunction with the creation of Roylance Farms P.R.U.D.- Phase II, Amendment # 2, recorded in the Weber County Recorders office in book 53, on page 82 of Records, as entry # 1767620 (see also Weber County plat book 17, pages 260, 261 and 262).
- 1.30 **Person** shall mean and refer to a natural person, corporation, partnership, trust, limited liability company, or other legal entity.
- 1.31 **Plat Map or Plat Maps** shall mean and refer to the Maps attached hereto as Exhibit "D" and Exhibit "E", titled "Roylance Farms P.R.U.D.- Phase II, 3<sup>rd</sup> Amendment," and "Roylance Farms P.R.U.D.- Phase II, 4<sup>th</sup> Amendment," filed in connection with this Restated Declaration (or shortly thereafter) in the office of the County Recorder of Weber County, as they may be amended from time to time. Among other things the Plat Maps show the location of the Lots and Common Area.
- 1.32 **Private Way or Private Drive** shall mean and refer to those ways, drives or turnabouts within the Project not dedicated to the City of North Ogden.
- 1.33 **Project** shall mean and refer to Belle Isle Subdivision, aka Roylance Farms P.R.U.D.
- 1.34 **Project Documents** shall mean collectively the Restated Declaration, Bylaws, Administrative and House Rules and Regulations adopted by the Board from time to time, and Articles of Incorporation of the Association.
- 1.35 **Property** shall mean and refer to all of the land or real estate, improvements and appurtenances submitted to this Restated Declaration.
- 1.36 **Recreational, Oversized or Commercial Vehicle** shall mean and refer to any recreational, commercial or oversized vehicle, motor home, commercial vehicle, tractor, golf cart, mobile home or trailer (either with or without wheels), camper, camper trailer, boat or other watercraft, boat trailer, or any other recreational, oversized or commercial transportation device of any kind.
- 1.37 **Restated Declaration** shall mean and refer to this Amended and Restated Declaration of Covenants, Conditions and Restrictions of the Belle Isle.

## Article 2

### SUBMISSION OF PROPERTY CONVEYANCE OF COMMON AREA INCREASE IN LOT SIZE

- 2.1 **Submission of Land.** The Land, described with particularity on Exhibit "A" attached hereto and incorporated herein by this reference is hereby submitted to the terms, covenants and conditions of, is hereby made subject to, and shall be governed and regulated by this Restated Declaration. In addition:

The Land is SUBJECT TO the described easements and rights of way, TOGETHER WITH all easements, rights-of-way, and other appurtenances and rights incident to, appurtenant to, or accompanying the above-described parcel of real property.

ALL OF THE FOREGOING IS SUBJECT TO: All liens for current and future taxes, assessments, and charges imposed or levied by governmental or quasi-governmental authorities; all patent reservation and exclusions; any mineral reservations of record and rights incident thereto; all instruments of record which affect the above-described tract or any portion thereof, including, without limitation, any mortgage or deed of trust; all visible and necessary easements and rights-of-way; all easements and rights-of-way of record; any easements, rights-fo-way, encroachments, or discrepancies shown on or revealed by the Plat Maps or otherwise existing; an easement for each and every Common Area improvement, equipment, pipes, lines, cable, wires, utility systems, or similar facilities which traverse or partially occupy the above-described tract; and all easements necessary for servicing, repairing, ingress to, egress from, maintenance of, and replacement of all such Common Area improvements, equipment, pipes, lines, cables, wires, utility systems, and similar facilities.

- 2.2 **Common Area.** The Enabling Declaration and accompanying Original Plat Map created Common Area as described on the Original Plat Map at the time the Belle Isle subdivision was created (known on the Weber County records as Roylance Farms P.R.U.D.- Phase II, Amendment #2). As set forth in the Enabling Declaration and the accompanying Original Plat Map, each Owner received an interest in the Common Area described in the Original Plat Map.

**3<sup>rd</sup> and 4<sup>th</sup> Amended Plat Maps; Conveyance of Common Area to Expand Lot Size.** For the reasons set forth herein, the Association and the Lot Owners have caused to be created and filed herewith Maps known as the "Roylance Farms P.R.U.D.- Phase II, 3<sup>rd</sup> Amendment," and the "Roylance Farms P.R.U.D.- Phase II, 4<sup>th</sup> Amendment," (the 4<sup>th</sup> Amendment will be recorded shortly after the 3<sup>rd</sup> Amendment) and have agreed to and will convey and transfer, to the respective Lot Owners, without warranty of title, any and all interest they possess in those portions of the Common Area as set forth in the Original Plat Map (" Roylance Farms P.R.U.D.-Phase II, Amendment # 2"), aka Belle Isle Subdivision, and specifically agree to convey and transfer to each Lot Owner that portion of the Common Area that is included within each Lot Owner's Lot as indicated on the Maps attached hereto as Exhibits "D" and "E", the originals of which will be filed on or about the date this

Restated Declaration is recorded in the Recorders office of Weber County, Utah. Furthermore, each Lot Owner hereby disclaims any and all interest he or she has or may have in the Common Area that is included within the boundaries of a Lot owned by another Lot Owner as shown on the Maps attached hereto as Exhibit "D" and "E". The Lot Owners hereby waive any and all claims they may have or could have in the Common Area set forth in the Original Plat Map or Enabling Declaration, except as to those specific portions of the Common Area they are receiving to increase the size of their Lot as a result of this conveyance and as provided in this Restated Declaration.

**Conveyance of Common Area to Third Parties.** In harmony with the Owners' collective desire to reduce the total Common Area over which the Association has ownership and maintenance responsibility, the Lot Owners hereby consent and agree to transfer all the Association's interest in and title to Lots 91, 92 & 94 (as set forth on the Maps), which Lots have heretofore been part of the Association's Common Area, to the following persons or entities:

- Lot 92- To be sold to the adjoining lot owner # 25 and a portion conveyed to North Ogden City for use as a detention basin.
- Lot 91- To North Ogden City; dedicated for use as a city park.
- Lot 94- To owner of adjoining lot 9 in the Roylance Farms Subdivision, Phase 3; I.D. # 17-241-0005

The Board is granted the express authority to execute any deed or document designed to convey title to or an interest in the Common Area, the Lots or any interest in real property that is affected by or referred to in this Restated Declaration, including but not limited to Lots 91, 92 & 94.

**Acceptance of Common Area to Increase Lot Size.** Except as set forth in the preceding paragraphs, the Lot Owners accept ownership of and title to that Common Area set forth on the Plat Maps (Exhibits "D" and "E") that has been transferred, conveyed, subdivided and annexed to and joined as a part of the Owner's expanded Lot, and hereby covenant to receive title thereto, own, maintain and care for the Lot and all the real property included therewith in accordance with the provisions of this Restated Declaration.

**Savings Clause.** The objective of this transfer, conveyance and waiver of an interest in of Common Area is to create expanded Lot sizes as shown on the Plat Maps, with each Owner of the expanded Lot receiving and possessing a fee interest in the additional real property added to his or her Lot. Should there be an objection and successful legal challenge to this process by an interested party, such a mortgagee or beneficiary under a trust deed, rather than to rescind this conveyance and restore the property to the legal status and condition as it existed prior to this transfer, the above language referring to this conveyance shall be severed from this Restated Declaration and all the Common Area referred to herein that was intended to be conveyed to Lot Owners shall be deemed limited common area and all Owners shall possess all the rights and responsibilities relative to the limited common area

that they were intended to receive as described herein, but they shall not possess a fee ownership interest therein, and the remainder of this Restated Declaration shall remain in effect. The purpose of this saving clause is to unequivocally state that the Owners intend to take full responsibility for the use and maintenance of the Common Area adjacent to their Dwelling Unit as described on the Original Plat Map, thereby reducing the assessments and maintenance costs to the Association.

## **COVENANTS, CONDITIONS, AND RESTRICTIONS**

The foregoing submission is made upon and under the following covenants, conditions, and restrictions:

### **Article 3**

#### **GENERAL COVENANTS AND RESTRICTIONS**

- 3.1 Description of Improvements.** The significant improvements in the Project include, or shall include, sixty-six (66) Lots, upon which sixty-six (66) Buildings shall be constructed, providing a total of up to sixty-six (66) Dwelling Units, together with certain Common Area and Facilities, improvements consisting of certain common grounds, green space and landscaping. The Buildings will be composed of the following construction materials: wood frame with load and non-load bearing walls studded with wood; basement walls and floors of concrete; two by four (2 x 4) stud walls; wood truss floor joists, prefabricated wood truss roof with asphalt shingles; floor surface of gypcrete over plywood subfloor; interior walls of sheet rock or wall board, and exterior walls of stucco.
- 3.2 Description and Legal Status of the Property.** The Lots shall be individually owned and the Common Area shall be owned by the Association.
- 3.3 Membership in the Association.** Membership in the Association is appurtenant to the ownership of a Lot, and may not be separated therefrom.
- 3.4 Conveyancing.** Regardless of whether or not the description employed in any such instrument is in the above-specified form, all provisions of this Restated Declaration shall be binding upon and shall inure to the benefit of any party who acquires any interest in a Lot. Neither the membership in the Association, nor the right of non-exclusive use of a Common Area shall be separated from the Lot to which it appertains; and, even though not specifically mentioned in the instrument of transfer, such mandatory membership in the Association and such right of exclusive use shall automatically accompany the transfer of the Lot to which they relate.

### **Article 4**

#### **OWNERSHIP**

- 4.1 Ownership and Use.** Each Owner shall be entitled to the exclusive ownership and

possession of his Lot and to membership in the Association as set forth herein, subject, however, to the following:

- 4.1.1 **Nature and Restrictions on Ownership and Use in General.** Each Owner shall have and enjoy the privileges of fee simple Ownership of his Lot. There shall be no requirements concerning who may own a Lot, it being intended that they may and shall be owned as any other property rights by persons. This is a residential community and as such the Lots shall be used only for residential purposes, except as expressly set forth below, and the Common Areas shall only be used in a manner consistent with the residential nature of the Project.
- 4.1.2 **Title to the Common Area.** The Common Area, as described in Exhibits "D" and "E" attached hereto and incorporated herein by this reference, shall be owned by the Association.
- 4.1.3 **Mandatory Association.** Each purchaser of a Lot shall upon acceptance of a deed or other conveyance of title automatically become a member of the Association.
- 4.1.4 **Member's Easements and Rights of Way.** Every Member of the Association shall as an Owner have the right and non-exclusive easement to use and enjoy the Common Area. Such right and easement shall be appurtenant to and shall pass with the title to every Lot, subject to the following restrictions:
- (a) The right of the Association to limit the number of guests and residents;
  - (b) The right of the Association to suspend the voting privilege; and
  - (c) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for the purpose of regulating transportation, maintaining the roadways or providing utilities and other similar or related purposes.

## Article 5

### RULES AND RESTRICTIONS

The Board shall have the power and authority to adopt, amend or repeal administrative rules and regulations, and architectural guidelines, from time to time. The Project Documents shall be binding upon all Owners and residents, their family members, guests and invitees by virtue of their accepting a deed or other document of conveyance, or possession of, or entering upon a Lot or the Project. The use of Property, including without limitation use of the Lots, is subject to the following restrictions:

- 5.1 **Nuisance.** It shall be the responsibility of each Owner and resident to prevent the creation or maintenance of a nuisance in, or about the Project. For purposes of this section a "nuisance" includes but is not limited to the following:

- 5.1.1 The development of any unclean, unhealthy, unsightly, or unkempt condition on, in or about a Lot or the Common Areas.
- 5.1.2 The storage of any item, property or thing that will cause any Lot or the Common Areas to appear to be in an unclean or untidy condition or that will be noxious to the senses;
- 5.1.3 The storage of any substance, thing or material upon any Lot or in the Common Areas that will emit any foul, unpleasant or noxious odors, or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort, or serenity of the other residents at the Project;
- 5.1.4 The creation or maintenance of any noxious or offensive condition or activity in or about any Lot or the Common Areas:
- 5.1.5 Actions or activities tending to cause embarrassment, discomfort, annoyance, distress or a disturbance to any other residents, their guests or invitees, particularly if the police or sheriff must be called to restore order;
- 5.1.6 Maintaining any plants, animals, devices or items, instruments, equipment, machinery, fixtures, or things of any sort whose activities or existence in any way is illegal, noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the Project by other residents, their guests or invitees;
- 5.1.7 Creating or allowing an unreasonable amount of noise in, on or about any Lot or the Common Area, especially after 10:00 p.m. and before 7:00 a.m.; and
- 5.1.8 Creating or allowing an unreasonable amount of traffic in, on or about any Lot or the Common Area, especially after 10:00 p.m. and before 7:00 a.m.
- 5.2 **Unsightly Work, Hobbies or Unkempt Condition.** The pursuit of hobbies or other activities, which cause or are likely to cause disorderly, unsightly, or unkempt conditions, shall not be pursued or undertaken on any part of the Project.
- 5.3 **Removing Garbage, Dust & Debris.** No rubbish, trash, refuse, waste, dust, debris or garbage (hereinafter the "garbage") shall be allowed to accumulate so as to become a nuisance. During the week, all garbage shall be placed into plastic bags or other acceptable receptacles and deposited into designated garbage cans or dumpsters; individual garbage cans shall not be placed or stored so as to be visible from the street, other Dwelling Units or the Common Area except on garbage pick-up day; and on garbage pick-up days, garbage cans shall not be left out in the designated garbage can pick-up area for a period longer than twenty-four (24) consecutive hours.
- 5.4 **Subdivision of a Lot.** No Lot shall be subdivided or partitioned.
- 5.5 **Firearms, Incendiary Devices and Graffiti.** The use of firearms and incendiary devices, or the painting of graffiti, within the Project is prohibited. The term firearms includes but

is not limited to all guns, pistols, handguns, rifles, automatic weapons, semi-automatic weapons, BB guns, pellet guns, sling shots, wrist-rockets, blow-dart guns, and other firearms of all types, regardless of size.

- 5.6 **Temporary Structures.** No Owner or resident shall place upon any part of the Project any temporary structures including but not limited to tents, trailers, or sheds, without the prior written consent of the Board. .
- 5.7 **Parking Pads.** No parking pads (e.g., cement, concrete, asphalt or of any other material) may be constructed for recreational, commercial or oversized vehicles of any kind.
- 5.8 **Trees, Shrubs and Bushes; Maintenance of Proper Sight Distance at Intersections.** The property located at or near driveways, entrances, exits, walkways, paths and street intersections or corners shall be landscaped so as to remove any obstructions and to permit safe sight. No fence, wall, hedge, shrub, bush, tree or monument, real or artificial, shall be planted or placed by any Owner or resident in, on or about the Common Areas without the prior written consent of the Board. The Board may alter or remove any objects planted or placed in violation of this subsection.
- 5.9 **Fences.** All fences must be properly maintained and must be constructed of vinyl or wood. Such fences must be maintained so as not have broken slats or rails. Wood fences must be stained at least annually. Metal, wire, chainlink fences are only permitted for temporary use (less than 30 days). The following lots currently have a chain link fence and are grandfathered and permitted to keep a chain link fence: 75, 65, 66 & 61. If these lots replace a fence, it must conform to the provisions of this section 5.9.
- 5.10 **Energy Conservation Equipment.** No solar energy collector panels, other energy conservation equipment or attendant hardware shall be constructed or installed on the Project without the prior written consent of the Board.
- 5.11 **Business Use.** No commercial trade or business may be conducted in or from any Lot unless: a) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from outside the residence; b) the business activity conforms to all zoning requirements for the Project; c) the business activity does not involve persons coming onto the Project who do not reside in the Project or door-to-door solicitation of residents of the Project; and d) the business activity is consistent with the residential character of the Project and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Project, as may be determined in the sole discretion of the Board.
- 5.12 **Garages; Storage and Parking of Motor Vehicles.** Each Dwelling Unit constructed upon a Lot shall contain a garage. The driving, parking, standing and storing of motor vehicles in, on or about the Project shall be subject to the following:
- 5.12.1 Any traffic and parking rules and regulations as may be adopted by the Board from time to time; Except for purposes of loading or unloading passengers or supplies (for a period of time not to exceed twenty-four (24) hours), no recreational, commercial or oversized vehicle parking is allowed anywhere in the Project at any time or for any reason; thus, all recreational, commercial and oversized vehicles must be parked



or stored outside of the Project;

- 5.12.2 Since the streets within the project are public streets, any parking in the streets is subject to the North Ogden City Code; No motor vehicle or trailer, including but not limited to any car, automobile, truck, van, minivan, or any other transportation device of any kind may be parked or stationed in such a manner so as to block access to any Lot, structure, building, or driveway, or so as to create an obstacle or potentially dangerous condition; No resident shall repair or restore any vehicle of any kind in, on or about any Lot or the Common Area, except for emergency repairs, and then only to the extent necessary to enable movement thereof to a proper repair facility.
- 5.12.3 Since the garage must be used primarily for parking and storage of vehicles, no garage may be altered in such a manner that the number of motor vehicles which may reasonably be parked therein after the alteration is less than the number of motor vehicles that could have been reasonably parked in the garage as originally designed and constructed. Garage doors shall remain closed except when the garage is in use.
- 5.12.4 By driving a motor vehicle into the Project, each vehicle owner and driver is deemed to have consented to be bound by and subject to this section.
- 5.12.5 A motor vehicle parked in violation of this Restated Declaration or any administrative parking rules and regulations which may be adopted by the Board from time to time, may be immobilized, impounded or towed by the Board, without further notice, and at the Owner's sole risk and expense.
- 5.13 **Antennas and Satellite Dishes.** Antennas and satellite dishes shall be prohibited within the Property, except (a) antennas or satellite dishes designed to receive direct broadcast satellite service which are one meter or less in diameter; (b) antennas or satellite dishes designed to receive video programming services via multipoint distribution services which are one meter or less in diameter or diagonal measurement; or (c) antennas or satellite dishes designed to receive television broadcast signals ("Permitted Devices") shall be permitted, provided that any such Permitted Device is:
- 5.13.1 located in the attic, crawl space, garage, or other interior spaces of the dwelling or another approved structure on the Unit, so as not to be visible from outside the dwelling or other structure;
- 5.13.2 located in the rear yard of the dwelling (i.e., the area between the plane formed by the front facade of the dwelling and the rear lot line) and set back from all lot lines at least eight (8) feet;
- 5.13.3 attached to or mounted on a deck or patio and extending no higher than the eaves of that portion of the roof of the dwelling directly in front of such antenna;
- 5.13.4 attached to or mounted on the rear wall of the dwelling so as to extend no higher than

the eaves of the dwelling at a point directly above the position where attached or mounted to the wall.

- 5.13.5 Notwithstanding the foregoing, should an Owner determine that a Permitted Device cannot be located in compliance with the above guidelines without precluding reception of an acceptable quality signal, then the Owner may install the device in the least conspicuous alternative location on the Unit where an acceptable quality signal can be obtained. The Board may adopt rules establishing a preferred hierarchy of alternative locations and requiring screening of all Permitted Devices, so long as such rules do not unreasonably increase the cost of installation, maintenance, or use of the Permitted Device.
- 5.14 **Windows and Window Coverings.** No aluminum foil, newspapers, reflective film coatings, or any other similar materials may be used to cover the exterior windows of any Dwelling Unit or garage. Sun shades and tinted windows are allowed subject to the approval of the Board. All windows and window panes in the Project shall be harmonious, and comparable in size, design and quality, so as not to detract from uniformity in appearance and construction.
- 5.15 **Pets.** No more than two (2) pets may be kept on any single Lot unless a variance is granted in writing by the Board. Each Resident with a pet or pets at his Dwelling Unit or within the Project shall abide strictly by the letter and spirit of any pet rules and regulations adopted by the Board from time to time. No pets, animals, livestock or poultry of any kind shall be bred in, on or about the Project. Owners and Residents shall clean up immediately after their pets. Pets outside the Dwelling Unit shall be in a fenced yard or kept on a leash or in a cage at all times and under the control of a responsible person. Pets which constitute a nuisance in the opinion of the Board (e.g., dogs running loose about the Project and without a leash or in a cage and not under the control of a responsible person, dogs not immediately cleaned up after, barking, whining, howling, scratching, etc.) will not be tolerated in the Project and shall be permanently removed from the Project no later than ten (10) days after written notice to do so is sent by the Board.
- 5.16 **Insurance.** Nothing shall be done or kept in, on or about any Lot or the Common Area which may result in the cancellation of the insurance on the Property or an increase in the rate of the insurance on the Project over what the Board, but for such activity, would pay.
- 5.17 **Laws.** Nothing shall be done or kept in, on or about any Lot or Common Area, or any part thereof, which would be a violation of any statute, rule, ordinance, regulation, permit or other validly imposed requirement of any governmental body.
- 5.18 **Damage or Waste.** No damage to, or waste of, the Common Area shall be committed by any owner or any invitee of any Owner, and each Owner shall indemnify and hold the Board and the other Owners harmless against all loss resulting from any such damage or waste caused by that Owner or an invitee;
- 5.19 **Structural Alterations.** No structural alterations to the Common Area or Facilities are allowed without the prior written consent of the Board.

- 5.20 **BBQ, Patio Table and Chairs.** Each Lot Owner or resident may have one BBQ, one outdoor table and set of chairs outside, provided they are located exclusively within the confines of his cement pad or patio and are maintained in a clean, tidy and neat manner. Each Lot Owner or resident shall use his best efforts to keep such personal property so it is not visible from the street, the Common Area or another Lot. Bicycles, tricycles, motorcycles, household furniture and furnishings, equipment, machinery, tools, supplies, boxes, storage containers or other items of personal property may not be stored in, on or about the cement pad, patio or deck area, in the Limited Common Area, or in any manner so as to be visible from the Common Area, street or another Lot.
- 5.21 **Basements.** All Lots within Belle Isle are restricted to structures which have the lowest floor elevation no greater than forty inches (40") below the natural ground surface. If basement floor elevations below this depth are requested, they may be approved subject to an individual Lot soil test hole investigation reviewed by the staff of North Ogden City and the installation of a perimeter subsurface drainage system around the basement foundation approved by North Ogden City. In the event of any conflict, inconsistency, or incongruity between the foregoing provision and provisions on the Plat Maps (i.e., no Building to have finished floor below existing ground surface), the former shall in all respects govern and control.
- 5.22 **Leases.** Any agreement for the leasing, rental or occupancy of a Unit (hereinafter referred to collectively as the "lease") shall be in writing and a copy thereof shall, within five (5) days after it is requested be delivered to the Board. By virtue of an Owner accepting a deed or other document of conveyance to a Lot and a tenant taking possession of a Dwelling Unit, every lease shall be deemed to include a provision that the terms of such lease are subject in all respects to the terms, covenants, conditions and restrictions set forth in the Project Documents and that any failure by the residents to comply with the terms thereof shall be and constitute a material default under the lease. Any Owner leasing his Unit shall be responsible for assuring compliance by the residents with the Project Documents. No Owner shall be permitted to lease his Unit for transient, short-term, hotel, seasonal, vacation, corporate or executive use purposes, which shall be deemed to be any lease with an initial term of less than six (6) months. Daily or weekly rentals are prohibited. No owner may lease individual rooms to separate persons or less than his entire Unit. The Board may require a Unit Owner to use the Association's lease agreement form. Other than as stated in this Section, there is no restriction on the right of any Owner to lease or otherwise grant occupancy rights to a Unit.
- 5.23 **Easements: Drainage, Support, Maintenance and Repair.** The following easements and rights of way are hereby RESERVED for and GRANTED to the Association:
- 5.23.1 A non-exclusive easement over, across, through, above and under the Lots and the Common Area for the operation, maintenance and regulation of the Common Area, amenities and facilities; and
- 5.23.2 A reciprocal easement on, over, under, through and across all Lots and Common Area for the drainage of surface waters on, over, under through and across the

Project. No Lot Owner shall interfere with the Master Subdrain and Storm Drain System. Each Lot Owner shall be responsible to develop his Lot in a manner consistent with the Master Subdrain and Storm Drain System, and so as not to detract therefrom or interfere therewith, or the Established Drainage Pattern on any other Lot in the Project. No changes to the Established Drainage Pattern on any Lot shall be permitted without the prior written consent of the Board: For purposes of this Section, the term "Established Drainage Pattern" is defined as the approved drainage pattern, facilities and improvements in existence at the time such Lot is conveyed to a home purchaser. The cost of all improvements, maintenance, repairs and replacements of the subdrain and storm drainage system located in the Common Area shall be the responsibility of the Association.

- 5.24 **Liability of Owners and Residents for Damages.** Any Owner or resident shall be liable to the Association or other Owners or Residents for damages to person or property in the Project caused by his negligence.
- 5.25 **Encroachments.** In the event that any portion of the Common Area, a Lot, Building or Dwelling Unit encroaches or comes to encroach upon another Common Area or another Lot, Building or Dwelling Unit as a result of construction, reconstruction, repair, shifting, settling, or movement, an easement for such encroachment is created hereby and shall exist so long as such encroachment exists.

#### Article 6

#### INCORPORATION

- 6.1 The lot owners hereby authorize and approve the creation of a Utah nonprofit corporation, to be known as the Belle Isle Homeowners Association, Inc. ("Association"), by filing with the State of Utah the Articles of Incorporation for the Association in a form substantially similar to those contained in Exhibit "B", attached hereto. The Association shall be responsible for managing the Common Area within Belle Isle and governing the affairs of Belle Isle in accordance with the provisions of this Restated Declaration, any Amendments to this Restated Declaration, the Articles of Incorporation and the Bylaws.
- 6.2 By voting to approve this Restated Declaration, the lot owners hereby agree to adopt the following documents:
- 6.2.1 this Restated Declaration;
  - 6.2.2 the Articles of Incorporation (Exhibit "B" attached hereto); and
  - 6.2.3
  - 6.2.4 the Bylaws of the Association (as set forth in Exhibit "C" attached hereto)

as the governing documents of Belle Isle Homeowners Association, Inc., which documents shall constitute equitable servitudes that shall run with the real property described in Exhibit "A". Whenever the term "Board" is referred to herein, it shall also mean and apply to the term "Board" or "Board of Directors".

**Article 7****BOARD**

- 7.1 **Board.** The Association shall be managed by a Board, which shall be comprised of three (3) members. All Members shall be elected for two (2) year terms.
- 7.2 **Status and General Authority of Board.** Any instrument executed by the Board that recites facts which, if true, would establish the Board's power and authority to accomplish through such instrument what is purported to be accomplished thereby, shall conclusively establish said power and authority in favor of any person who in good faith and for value relies upon said instrument. The Association shall, in connection with its exercise of any of the powers delineated below, constitute a legal entity capable of dealing in its Board name. The Board shall have, and is hereby granted, the following authority and powers:
- 7.2.1 **To Enter.** The Power and authority to enter into or upon any Lot or Common Area to make repairs and to do other work reasonably necessary for the proper maintenance and operation of the Project. Except in the case of an emergency, reasonable notice shall be given to the residents.
- 7.2.2 **Grant Easements.** The authority, without the vote or consent of the Owners, Mortgagees, insurers or guarantors of any Mortgage, or of any other person, to grant or create, on such terms as it deems advisable, reasonable permits, licenses, and non-exclusive easements over, under, across, and through the Common Areas for utilities, roads, and other purposes reasonably necessary or useful for the proper maintenance, operation or regulation of the Project.
- 7.2.3 **Execute Documents.** The authority to execute and record, on behalf of all Owners, any amendment to the Restated Declaration or Plat Maps which has been approved by the vote or consent necessary to authorize such amendment.
- 7.2.4 **Standing.** The power to sue and be sued.
- 7.2.5 **Enter Into Contracts.** The authority to enter into contracts which in any way concern the Project, so long as any vote or consent necessitated by the subject matter of the agreement has been obtained.
- 7.2.6 **Transfer Interests in Real Property.** The power and authority to exchange, convey or transfer any interest in real property, so long as it has been approved by at least Seventy-five percent (75%) of the members in the Association. This authority includes the express authority of the Board to convey title to any Common Area or Lots that are being affected by this Restated Declaration.
- 7.2.7 **To Purchase.** The power and authority to purchase, otherwise acquire, and accept title to, any interest in real property, so long as it has been approved by at least Seventy-five percent (75%) of the members in the Association.

- 7.2.8 **To Add Property.** The power and authority to add any real property, or interest therein, obtained pursuant to subparagraph (g) above to the Project, so long as it has been approved by at least Seventy-five percent (75%) of the members in the Association.
- 7.2.9 **Promulgate Rules.** The authority to promulgate such reasonable administrative guidelines, rules, regulations, and procedures as may be necessary or desirable to aid the Board in carrying out any of its functions or to insure that the Project is maintained and used in a manner consistent with this Restated Declaration.
- 7.2.10 **Meetings.** The authority to establish procedures for the conduct of its meetings, including but not limited to the power to decide what portion of the meeting shall be open or closed to Members of the Association or residents not on the Board, to retire to executive session, to regulate record keeping, and to allow, control or prohibit the electronic reproduction (video or audio) of Board meetings.
- 7.2.11 **Borrow Money.** The power and authority to borrow money and pledge assets of the Association, so long as it has been approved by at least Seventy-five percent (75%) of the members in the Association.
- 7.2.12 **User's Fees.** The power and authority to charge a user's fee or rent for common facilities.
- 7.2.13 **All other Acts.** The power and authority to perform any and all other acts, and to enter into any other transactions which may be reasonably necessary for the Board to perform its functions on behalf of the Owners.
- 7.2.14 **Delegation of Management Responsibilities.** The Board may delegate some of its management responsibilities to either a professional management company, an experienced on-site manager, independent contractors, through service contracts, or any combination thereof. The termination provision of any such contract must not require a termination penalty or any advance notice of more than thirty (30) days, no such contract shall be for a term greater than one (1) year.

**Article 8**

**MEMBERSHIP AND VOTING**

- 8.1 **Membership and Voting Allocations.** The Association shall have one (1) class of membership – Class A members, who shall be all Owners, and who shall be entitled to vote on all issues before the Association, subject to the following: :
  - 8.1.1 **One Vote.** Each Lot shall have one (1) vote;
  - 8.1.2 **Subject to Assessment.** No vote shall be cast or counted for any Lot not subject to assessment;

- 8.1.3 **Multiple Owners.** When more than one (1) person or entity holds such interest in a Lot, the vote for such Lot shall be exercised as those persons or entities themselves determine and advise the Secretary of the Association prior to any meeting. In the absence of such advise, the vote of the Lot shall be suspended in the event more than one (1) person or entity seeks to exercise it.
- 8.1.4 **Leased Lot.** Any Owner of a Lot which has been leased may, in the lease or other written instrument, assign the voting right appurtenant to that Lot to the lessee, provided that a copy of such instrument is furnished to the Secretary at least three (3) days prior to any meeting.
- 8.2 **List of Lot Owners, Eligible Mortgagees, and Eligible Insurers or Guarantors.** The Board shall maintain up-to-date records showing: (a) the name of each person who is an Owner, the address of such person, and the Lot which is owned by him or her; (b) the name of each person or entity who is an Eligible Mortgagee, the address of such person or entity, and the Lot which is encumbered by the Mortgage held by such person or entity; and (c) the name of each person or entity who is an Eligible Insurer or Guarantor, the address of such person or entity, and the Lot which is encumbered by the Mortgage insured or guaranteed by such person or entity. In the event of any transfer of a fee or undivided fee interest in a Lot, either the transferor or transferee shall furnish the Board with evidence establishing that the transfer has occurred and that the Deed or other instrument accomplishing the transfer is of record in the office of the County Recorder of Weber County, Utah. The Board may for all purposes act and rely on the information concerning Lot ownership in its records or, at its option, the records of the Weber County recorder. The address of any Owner shall be deemed to be the address of the Lot owned by such person unless the Board is otherwise advised in writing.

## Article 9

### RESERVES, OPERATIONS AND MAINTENANCE

- 9.1 **Reserve Analysis Required. Reserve Analysis.** The Board shall cause a reserve analysis to be conducted no less frequently than every five years. The Board's initial reserve analysis must be prepared prior to June 30, 2012. The Board shall thereafter review and, if necessary, update a previously conducted reserve analysis no less frequently than every two years, or as required by Utah law. The Board may conduct a reserve analysis itself or may engage a reliable person or organization, as determined by the Board, to conduct the reserve analysis.
- 9.2 The Board may not use money in a reserve fund:
- 9.2.1 for daily maintenance expenses, unless a Majority of the Owners vote to approve the use of reserve fund money for that purpose; or
- 9.2.2 for any purpose other than the purpose for which the reserve fund was established, unless a majority of the Owners vote to approve the use of reserve fund money for another purpose.
- 9.3 Based on the results of the reserve analysis, the Board shall create a reserve fund into which

the Board shall cause to be deposited those Common Area assessments collected from Owners for the purpose of funding the reserve fund.

- 9.4 The Board shall annually, either at the annual meeting of Owners or at a special meeting of Owners, (i) present the reserve study to the Owners, and (ii) provide an opportunity for Owners to discuss reserves and to vote on whether to fund the reserve fund and, if so, how to fund it and in what amount. The Board shall keep minutes of each such meeting held under this Article and indicate in the minutes any decision relating to funding the reserve fund. Those Owners present, in person or by proxy, at the annual or special Association meeting during which the reserve study is presented and discussed, and at which the funding amount is voted on by the Owners, shall constitute a quorum regardless of any other requirement or percentage set forth herein or in the Bylaws, unless fewer than twenty percent (20%) of the Owners are present, in which case, no vote shall be taken.
- 9.5 The Board shall cause an assessment to be made against all Owners consistent with the vote of the Owners regarding the manner and amount of funds to be placed in the reserve fund, which assessment shall be collected on the same terms and conditions as other Common Expenses. The Board shall maintain a reserve fund separate from other funds of the Association. This subsection may not be construed to limit a Board from prudently investing money placed in a reserve fund account.
- 9.6 As used herein, "reserve analysis" means an analysis to determine:
- 9.6.1 the need for a reserve fund to accumulate money to cover the cost of repairing, replacing, and restoring Common Areas and facilities that have a useful life of three years or more, but excluding any cost that can reasonably be funded from the general budget or other funds of the association of Unit Owners; and
- 9.6.2 the appropriate amount of any reserve fund.
- 9.7 The reserve fund shall be maintained out of regular assessments for Common Expenses.
- 9.8 **Operation, Maintenance and Alterations.** The Lots and Common Area shall be maintained by the Lot Owners and the Association as follows:
- 9.8.1 **Area of Common Responsibility.** The Association shall maintain, repair and replace, as needed from time to time, the following:
- (a) All Common Areas and Facilities as well as all improvements constructed or installed thereon;
- (b) All landscaping, green space, sprinkler systems, sprinkler controls, heads and water distribution lines, grass, sod, berms, flower and plant beds, ground cover, trees, shrubs and bushes, in, on or about the Common Areas; this includes but is not limited to all planting, pruning and care of the plant life, grass, sod, edging and mowing, in, on or about the Common Area (hereinafter referred to collectively as "landscaping").



- (c) All fences within the Project that are bordered solely by Common Area;
- (d) The entryway monument for the Project, and those sidewalks, curbs, gutters and street lighting that are part of the Common Area;
- (e) All central or community systems for water, central park and storm water detention;

**9.8.2 Area of Personal Responsibility.** Each Owner shall maintain the following:

- (a) All portions of the exterior, as well as the interior, of their individual home, Lot, Dwelling Unit and garage, including but not limited to the roofs, stucco and exterior surfaces of the Buildings, the foundation, footings, columns, girders, beams, supports and main walls thereof, and every other portion of the Lot, Building and Dwelling Unit;
- (b) All driveways, sidewalks and entryways leading to and serving a Building or Dwelling Unit; and
- (c) All utility services servicing his Lot and Dwelling Unit, such as power, light, gas, hot and cold water, heating, refrigeration and air conditioning systems;
- (d) All interior fixtures, furnishings, windows, doors, patios, balconies and decks, garage doors and garage door systems located in his Lot or Dwelling Unit;
- (e) All fences within the boundaries of his Lot or otherwise bordering the Lot;
- (f) All landscaping contained within a Lot, including the sprinkling system, sprinkler controls, heads and distribution lines within the Lot.
- (g) All of the other non-landscaping improvements constructed or installed thereon or located in, on, under or above a Lot, unless otherwise determined in writing by the Board.

**9.8.3 Sprinkler System Repair.** Electrical or Electronic control module repairs/replacements that are part of a Lot's sprinkler system will be repaired by the Association and the repair cost shall be divided proportionately among the Lots that are served by the sprinkler system they service. (The proportionate sharing of expenses shall be allocated by the Board in roughly the following manner: if one Lot is served by 10 sprinkler heads and another Lot on the same sprinkler system is served by 2 sprinkler heads, then, in the absolute discretion of the Board, the Lot with the greater number of sprinkler heads may, but not need be, assessed a proportionately higher amount of the repair costs than the Lot that receives a smaller benefit from the system. This proportionate sharing of expenses is not intended to be an exact science but is intended to fairly distribute repair and maintenance costs

in only a very general manner consistent with the benefit derived by the respective Lot Owners and only to prevent manifest unfairness in allocating the cost of repairs. It is also recognized that some Lots could be serviced by more than two sprinkler systems and that such a Lot Owner should not usually be required to pay one-half the maintenance costs for two systems.) Mechanical failures, broken sprinkler heads, and leaking pipes affecting only one Lot will be the responsibility of the Lot Owner to repair and maintain. If a leak or sprinkler mechanical problem affects the function of a portion of a sprinkler systems on another Lot, including requiring turning off the water at a main valve, it must be repaired by the Lot Owner within 48 hours. If a required repair on an individual Lot that affects other Lots is not repaired within the time frame required, then the Association has authority to facilitate the repairs and assess the Owner. Leaks in the pipes in the mowstrip shall be the Association's responsibility. Sprinkler system maintenance and repair in the Common Area shall be the Association's responsibility. Any disputes between Lot Owners regarding the use, repair or maintenance of a jointly shared sprinkler system are to be submitted in writing to the Board, who shall hear the dispute and whose decision shall be final and not subject to review, appeal or complaint in a judicial action unless it is established the Board's decision is completely arbitrary and capricious.

**9.8.4 Snow and Ice Accumulations.** The following persons are responsible to remove snow and ice accumulations:

Dedicated Streets	City of North Ogden
Common Area	Association
Lots	Unit Owners

**9.8.5 Trash Receptacles.** Each Owner shall make his garbage can or receptacle available for pick up on the designated day each week; however, trash receptacles may not be left so as to be visible from any street or drive for a period in excess of twenty-four (24) hours, and when not placed on the street or drive for pick up garbage cans or receptacles shall be located in a place not visible from the street, drive, Common Area or another Dwelling Unit.

**9.8.6 Standard of Care - Generally.** The Property shall be maintained in a usable, clean, functional, safe, healthy, sanitary, attractive, and good condition, consistent with community standards.

**9.8.7 Standard of Care - Landscaping.** All landscaping in the Project shall be maintained and cared for in a manner consistent with community standards and the quality of design and construction originally established . Specific guidelines and restrictions on landscaping may be established by the Board from time to time. All landscaping shall be maintained in a neat and orderly condition. Any weeds or diseased or dead lawn, trees, ground cover or shrubbery shall be removed and replaced. All lawn areas shall be neatly mowed and trees, shrubs and bushes shall be properly pruned and trimmed. In a word, all landscaping shall be tasteful, so as not to affect adversely the value or use of any other Lot, or to detract form the uniform design and appearance of the Project.

- 9.8.8 **Neglect.** If the Board determines that any Owner has failed or refused to discharge properly his obligation with regard to the maintenance, repair, or replacement of items for which he is responsible hereunder; or that the need for maintenance, repair, or replacement of the Common Area is caused through the willful or negligent act of any Owner, his family, guest, lessees, or invitees, and it is not covered or paid by insurance, in whole or in part, then the Association may, but is not obligated to, provide such maintenance, repair or replacement at the Owner's sole cost and expense, subject to the following:
- (a) **Assessment.** Such costs as are incurred by the Association in the performance of an item included in the Area of Personal Responsibility shall be added to and become a part of the assessment to which such Owner and Lot is subject, and shall be secured by a lien against his Lot regardless of whether a notice of lien is filed.
  - (b) **Notice of Intent to Repair.** Except in an emergency situation, the Association shall give the Owner written notice of the Association's intent to provide necessary maintenance, repair, or replacement at Owner's cost and expense. The notice shall set forth with reasonable particularity the maintenance, repair, or replacement deemed necessary by the Board. The Owner shall have ten (10) days after receipt of notice within which to complete maintenance or repair, or if the maintenance or repair is not capable of completion within such time period, to commence replacement or repair within ten (10) days.
  - (c) **Emergency Situation.** If the Board determines that an emergency exists, then notice and the opportunity to cure the default is not necessary.
  - (d) **Optional Repairs.** The Association may, but is not obligated to, provide any such maintenance, repair, or replacement in the manner described above.
  - (e) **Right of Entry.** The Association or its agents or employees shall have a right to entry upon or into any Lot or Common Area as necessary to perform such work and shall not be liable for trespass for such entry or work.
- 9.8.9 **Changes to Areas of Personal or common Responsibility.** The Board may, in its sole discretion, add items to or subtract items from the Areas of Personal or Common Responsibility upon at least thirty (30) days prior written notice to the Lot Owners.
- 9.8.10 **Alterations to the Common Area.** No Owner or resident may at any time modify the drainage patterns or systems, landscaping, or make any structural alterations, modifications, changes or improvements to the Common Area or Facilities, including but not limited to the construction or installation of any additions, the extension or enclosure of any existing structures (e.g., fencing, decks, patios, walkways or sheds, etc.) not shown on the approved plans and specifications, without the prior written consent of the Board.

- 9.8.11 **Contract Services.** Each Owner may, at the sole option of the Board, contract with the Association to provide landscaping on the Owner's Lot and other maintenance services on an a-la-carte basis for an agreed upon fee. Any such contract with the Association must be in writing and the payment for any services provided by the Association shall be collected as a Common Expense. The Board may require payment in advance for services provided to an Owner's Lot.

#### Article 10

#### COMMON EXPENSES AND ASSESSMENTS

Each Owner, upon receipt of a deed to a Lot, shall pay his Assessments subject to and in accordance with the restrictions set forth below:

- 10.1 **Purpose of Common Expenses.** The Assessments provided for herein shall be used for the general purpose of operating the Project, promoting the recreation, health, safety, welfare, common benefit and enjoyment of the Owners and residents, including the maintenance of any real and personal property owned by the Association, and regulating the Project, all as may be more specifically authorized from time to time by the Board.
- 10.2 **Creation of Assessments.** The Assessments shall pay for the common expenses of the Association as may be from time to time specifically authorized by the Board. Each Owner, by acceptance of a deed or other document of conveyance to a Lot, whether or not it shall be so expressed in such deed or document, covenants and agrees to pay to the Association in a timely manner all Assessments imposed.
- 10.3 **Budget.** At least thirty (30) days prior to the annual homeowners meeting, the Board shall prepare and deliver to the Owners a proposed Budget which:
- 10.3.1 **Itemization.** Shall set forth an itemization of the anticipated Common Expenses and accumulation of reserves for the twelve (12) month calendar year, commencing with the following January 1.
- 10.3.2 **Basis.** Shall be based upon advance estimates of cash requirements by the Board to provide for the payment of all estimated Common Expenses growing out of or connected with the maintenance and operation of the Common Areas and the Association.
- 10.4 **Apportionment.** The common profits of the property shall be distributed among, the common expenses shall be charged and voting rights shall be allocated equally to the Lot Owners.
- 10.5 **Approval of Budget and Assessments.** The proposed Budget and the Assessments shall become effective unless disapproved at the Annual Meeting by a vote of at least a majority of the Owners. Notwithstanding the foregoing, however, if the membership disapproves the proposed budget and Assessments or the Board fails for any reason to establish the Budget and Assessments for the succeeding year, then and until such time as a new budget and new Assessment schedule shall have been established, the Budget and the Assessments in affect

for the then current year shall continue for the succeeding year.

- 10.6 Payment of Assessments.** The Board has the sole authority and discretion to determine how and when the annual Assessments are paid.
- 10.7 Personal Obligation of Owner.** Owners are liable to pay all Assessments assessed, accruing interest, late Assessments and collection costs, including attorney fees. Provided, however, no first mortgage or beneficiary under a first deed of trust (but not the Seller under an executory contract of sale such as a uniform real estate contract, land sales contract, or other similar instrument), who obtains title to a Lot pursuant to the remedies provided in the mortgage or trust deed shall be liable for unpaid Assessments which accrued prior to the acquisition of title. For purposes of this Section, the term "Owner" shall mean and refer jointly and severally to: (1) the Owner of both the legal and equitable interest in any Lot, (2) the owner or record in the offices of the County Recorder of Weber County, Utah, and (3) both the Buyer and Seller under any executory sales contract or other similar instrument.
- 10.8 Equitable Changes.** If the aggregate of all monthly payments on all of the Lots is too large or too small as a result of unanticipated income or expenses, the Board may from time to time effect an equitable change in the amount of said payments. Owners shall be given at least thirty (30) days written notice of any changes.
- 10.9 Dates and Manner of Payments.** The dates and manner of payment shall be determined by the Board.
- 10.10 Reserve Accounts.** The Board shall establish and maintain accounts to cover unexpected operating expenses (the "contingency fund") and to pay for capital improvements (the "Reserve Fund"). The reserve accounts shall be funded out of regular Assessments.
- 10.11 Acceleration.** Assessments shall be paid in the manner and on dates fixed by the Board who may, at its option and in its sole discretion, elect to accelerate the entire annual Assessment for delinquent Owners. If, however, the annual 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.
- 10.12 Statement of Assessments Due.** Upon written request, the Board shall furnish to any Owner a statement of Assessments due, if any, on his Lot. Failure to provide the certificate within then (10) days after a written request, shall be deemed conclusive evidence that all Assessments are paid current. The Association may require the advance payment of a processing charge not to exceed the amount permitted by law for the issuance of such certificate.
- 10.13 Superiority of Assessments.** All Assessments and liens created to secure the obligation to pay Assessments are superior to any homestead exemptions to which an Owner may be entitled.
- 10.14 Termination of Utility Service.** At the discretion of the Board, the utility service to any

Owner paid for by Assessments may be terminated if the Owner is in arrears on his obligation to pay Assessments and has failed to cure or make satisfactory arrangements to cure the default after reasonable notice of at least ten (10) days.

- 10.15 Suspension of Right to Vote for Non-Payment.** At the discretion of the Board, the right of an Owner to vote on issues concerning the Association may be suspended if the Owner is delinquent in the payment of his Assessments, and has failed to cure or make satisfactory arrangements to cure the default after reasonable notice of at least ten (10) days.
- 10.16 Special Assessments.** In addition to the other Assessments authorized herein, the Association may levy special assessments in any year, subject to the following:
- 10.16.1 Board Based Assessment.** So long as the special assessment does not exceed the sum of Five Hundred and 00/100ths Dollars (\$500.00) (the "Special Assessment Limit") per Lot in any one fiscal year, the Board may impose the special assessment without any additional approval.
- 10.16.2 Association Approval.** Any special assessment, which would exceed the Special Assessment Limit, shall be effective only if approved by a majority of the members of the Association.
- 10.16.3 Payment of Special Assessments in Installments.** The Board in its discretion may allow any special assessment to be paid in installments.
- 10.17 Specific Assessments.** If the Unit Owner has the choice to accept or reject the benefit, the Board shall also have the power specifically to assess the Owners in a particular area pursuant to this Section as, in its discretion, it shall deem necessary or appropriate, as follows:
- 10.17.1 Benefit only to Specific Lot.** If the expense benefits less than all of the Lots, then those Lots benefitted may be specifically assessed, and the specific assessment shall be equitably apportioned among those Lots according to the benefit received.
- 10.17.2 Unequal or Disproportionate Benefit.** If the expense benefits all Lots, but does not provide an equal benefit to all Lots, then all Lots shall be specifically assessed, but the specific assessment shall be equitably apportioned among all Lots according to the benefit received.
- Failure of the Board to exercise its authority under this Section shall not be grounds for any action against the Association or the Board and shall not constitute a waiver of the Board's right to exercise its authority under this Section in the future with respect to any expenses, including an expense for which the Board has not previously exercised its authority under this Section.
- 10.18 Individual Assessments.** Individual Assessments shall be levied by the Board against a Lot and its Owner to charge, impose, pay, compensate and/or reimburse the Association for:

- 10.18.1 fines levied and costs incurred in enforcing the Project Documents;
- 10.18.2 costs associated with the maintenance, repair or replacement of Common Area damaged by an Owner or resident or which falls within the Area of Personal Responsibility as defined above;
- 10.18.3 any other charge, fee, due, expense, or cost designated as an Individual Assessment in the Project Documents; and
- 10.18.4 Additional charges as provided for in this Restated Declaration

#### Article 11

#### COLLECTION OF ASSESSMENTS

The following restrictions apply to the collection of Assessments:

- 11.1 **Time is of the Essence.** Time is of the essence and all Assessments shall be paid promptly when due.
- 11.2 **Delinquent Assessments.** Any Assessments which are not paid when due are delinquent and a lien against the Lot affected shall attach automatically, and are effective the date of recording.
- 11.3 **Late Fees and Default Interest.** Any Assessments delinquent for a period of more than ten (10) days shall incur a late charge of twenty-five dollars (\$25.00) or five percent (5%) of the delinquent amount, whichever is greater. Default interest at the rate of one and ½ percent (1.5%) per month shall accrue on all delinquent accounts.
- 11.4 **Notice of Lien.** Each Assessment is a debt of the Owner at the time the Assessment is made and is collectible as such. If any Owner fails or refuses to make any payment of the debt when due, that amount constitutes a lien on the interest of the Owner in the Property, and upon the recording of notice of lien by the manager or Board it is a lien upon the Owner's interest in the Property prior to all other liens and encumbrances, recorded or unrecorded, except: (1) tax and special assessment liens on the Unit in favor of any assessing unit or special improvement district; and (2) encumbrances on the interest of the Owner recorded prior to the date such notice is recorded which by law would be a lien prior to subsequently recorded encumbrances.
- 11.5 **Foreclosure of Lien an/or Collection Action.** If any Assessments remain unpaid, the Association may, as determined by the Board, institute suit to collect the amounts due and/or foreclose the lien.
- 11.6 **Personal Obligation.** Each Owner, by acceptance of a deed or as a party to any other type of conveyance, vests in the association or its agents the right and power to bring all actions against him or her personally for the collection of the charges as a debt or to foreclose the lien in the same manner as mechanics liens, mortgages, trust deeds or encumbrances may

be foreclosed.

- 11.7 **No Waiver.** No Owner may waive or otherwise exempt himself or herself from liability for the Assessments provided for herein, including but not limited to the non-use of Common Areas or the abandonment of his Lot.
- 11.8 **Duty to Pay Independent.** No reduction or abatement of Assessments shall be claimed or allowed by reason of any alleged failure of the Association or Board to take some action or perform some function required to be taken or performed by the Association or Board under this Restated Declaration or the Bylaws, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or from any action taken to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority, the obligation to pay Assessments being a separate and independent covenant on the part of each Owner.
- 11.9 **Application of Payments.** All payments shall be applied as follows: Default Interest, Late Fees, Additional Charges, Delinquent Assessments and Current Assessments.
- 11.10 **Foreclosure of Lien as Mortgage or Trust Deed.** The lien for nonpayment of Assessments may be enforced by sale or foreclosure of the Owner's interest therein by the Board. The sale or foreclosure shall be conducted in the same manner as foreclosure in deeds of trust or mortgages or in any other manner permitted by law. In any foreclosure or sale, the Owner shall pay the costs and expenses of such proceedings, including but not limited to the cost of a foreclosure report, reasonable attorney's Assessments, and a reasonable rental for the Lot during the pendency of the foreclosure action. The Association in the foreclosure action may require the appointment of a receiver to collect the rental without regard to the value of the mortgage security. The Board may bid for the Lot at foreclosure or other sale and hold, lease, mortgage, or convey the same.
- 11.11 **Appointment of Trustee.** If the Board elects to foreclose the lien in the same manner as foreclosures in deeds of trust, then the Owner by accepting a deed to the Lot hereby irrevocably appoints the attorney of the Association, provided he is a member of the Utah State Bar, as Trustee, and hereby confers upon said Trustee the power of sale set forth with particularity in Utah Code Annotated, Section 57-1-23 (1953), as amended. In addition, Owner hereby transfers in trust to said Trustee all of his right, title and interest in and to the real property for the purpose of securing his performance of the obligations set forth herein.
- 11.12 **Attorney in Fact.** Each Owner by accepting a deed or other document of conveyance to a Lot hereby irrevocably appoints the Association as his attorney in fact to collect rent from any person renting his Lot, if the Lot is rented and Owner is delinquent in the payment of his Assessments. Rent shall be paid directly to the Association, upon written demand, until such time as the Owner's Assessments are current; and the Owner shall credit the Renter, against rent due, for the amount of money paid to the Association.



**Article 12****BOARD LIABILITY**

- 12.1 **Liability of Board.** The Association shall indemnify every officer and member of the Board against any and all expenses, including but not limited to attorney fees reasonably incurred by or imposed upon any officer or member of the Board in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board) to which he or she may be a party by reason of being or having been an officer or member of the Board. The officers and members of the Board shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, gross misconduct or bad faith. The officers and members of the Board shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association (except to the extent that such officers or members of the Board may also be Members of the Association), and the Association shall indemnify and forever hold each such officer and member of the Board free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall be exclusive of any other rights to which any officer or member of the Board, or former officer or member of the Board, may be entitled. The Association shall, as a common expense, maintain adequate general liability, officer's, and director's insurance coverage to fund this obligation, if such insurance is reasonably available.

**Article 13****INSURANCE**

The Board shall at all times purchase, maintain in force, and pay the premiums for, if reasonably available, insurance on the Common Areas satisfying at least the following requirements:

- 13.1 **Liability Insurance.** Liability insurance with adequate limits of liability for bodily injury and property damage, consistent with that of similarly situated first class subdivisions in the county. If possible, the policy should be written on the comprehensive form and shall include not-owned and hired automobile liability protection.
- 13.2 **Director's and Officer's Insurance.** Adequate director's and officer's liability insurance (aka Errors and omissions insurance).
- 13.3 **Fidelity Bond.** A separate fidelity bond in a reasonable amount to be determined by the Board to cover all non-compensated officers as well as all employees for theft of Association funds, subject to the following:
- 13.3.1 **Agents.** Where the Board or the Association has delegated some or all of the responsibility for the handling of funds to a management agent, such bonds are required for the management agent's officers, employees and agents handling or responsible for funds of, or administered on behalf of, the Board or the Association.

- 13.3.2 **Amount of Coverage.** The total amount of fidelity bond coverage required shall be based upon the Board's best business judgment, but shall not be less than the estimated maximum amount of funds, including reserve funds, in the custody of the Board, the Association, or the management agent, as the case may be, at any given time during the term of each bond. Nevertheless, in no event may the amount of such bonds be less than a sum equal to three (3) months' aggregate assessments on all Lots, plus reserve funds.
- 13.3.3 **Quality of Coverage.** The bonds required shall meet the following additional requirements:
- (a) they shall name the Board, the Owner's Association, and the Property Manager as obligee;
  - (b) if the insurance contract or bond excludes coverage for damages caused by persons serving without compensation, and may use that exclusion as a defense or reason not to pay a claim, the insurance company shall, if possible, be required to waive that exclusion or defense;
  - (c) the premiums on all bonds required herein for the Board and the Association (except for premiums on fidelity bonds maintained by a management agent for its officers, employees and agents) shall be paid by the Association as part of the Common Expenses; and
  - (d) the bonds shall provide that they may not be canceled or substantially modified, including cancellation for nonpayment of premium, without at least ten days' prior written notice to the Board and the Association, to any Insurance Trustee, and to each servicer of loans on behalf of any Mortgagee, and FNMA.
- 13.4 **Miscellaneous Items.** The following provisions shall apply to all insurance coverage:
- 13.4.1 **Quality of Carrier.** A "A+" or better rating in Best's Insurance Reports, an "A" or better rating in Demotech's Hazard Insurance Financial Stability Ratings, a "BBB" qualified solvency rating or a "BBB" or better claims-paying ability rating in Standard and Poor Insurer's Solvency Review, or a "BBB" or better claims-paying ability rating in Standard and Poor's International Confidential Rating Service—if the carrier is issuing a master policy or an insurance policy for the common elements in the Project.
- 13.4.2 **The Insured.** The name of the insured under each policy required to be maintained hereby shall be set forth therein substantially as follows: "BELLE ISLE HOMEOWNERS ASSOCIATION" for the use and benefit of the individual Owners."
- 13.4.3 **Designated Representative.** The Association may designate an authorized

representative of the Association, including any Insurance Trustee with whom the Association has entered into an Insurance Trust Agreement, or any successor to such Trustee, for the use and benefit of the individual Owners.

- 13.4.4 **Beneficiary.** In any policy covering the entire Project, each Owner and his Mortgagee, if any, shall be beneficiaries of the policy in an amount equal to the Owner's percentage of undivided Ownership interest in the Common Areas and Facilities.
- 13.4.5 **Certificate of Insurance.** Evidence of insurance shall be issued to each Owner and Mortgagee upon request.
- 13.4.6 **Mortgage Provisions.** Each policy shall contain a standard mortgage clause or its equivalent and shall provide that the policy may not be canceled or substantially modified without at least ten (10) days prior written notice to the Association and to each Mortgagee.
- 13.4.7 **Other Required Language.** Each insurance policy shall contain at least the following additional miscellaneous items:
- (a) **Waiver of Subrogation.** A waiver of the right of a subrogation against Owners individually;
  - (b) **Individual Neglect.** A provision that the insurance is not prejudiced by any act or neglect of any individual Owner; and
  - (c) **Deductible.** The deductible on a claim made against the Association's Property Insurance Policy shall be paid for by the Association.
- 13.5 **Individual Insurance.** Each Owner and resident shall purchase and maintain adequate liability and Property insurance on his Lot, Dwelling Unit, personal property and contents; provided, however, no Owner shall be entitled to exercise his right to maintain insurance coverage in such a way as to decrease the amount which the Association, on behalf of all the Owners and their mortgagees, may realize under any insurance policy which the Association may have in force on the Property at any particular time. The Association shall not maintain any insurance on any Lot, Dwelling Unit, or personal property owned separately by an Owner.
- 13.6 **Primary Coverage.** The insurance coverage of an Owner shall, in the event the Association also has insurance covering the loss, be primary and the insurance of the Association shall be secondary.
- 13.7 **Prompt Repair.** Each Owner further covenants and agrees that in the event of any partial loss, damage or destruction of his Lot, the Owner shall proceed promptly to repair or to reconstruct the damaged structure in a manner consistent with the original construction.
- 13.8 **Disbursement of Proceeds.** Proceeds of insurance policies shall be disbursed to repair promptly and reasonably the damages. Any proceeds remaining thereafter shall be placed in

the Reserve Account and retained by and for the benefit of the Association. This is a covenant for the benefit of the Association and any Mortgagee of a Lot, and may be enforced by them.

**13.9 Restrictions on Policies.** No insurance policy shall be maintained where:

**13.9.1 Individual Assessments Prohibited.** Under the term of the carrier's charter, Bylaws, or policy, contributions may be required from, or assessments may be made against, an Owner, a borrower, a Mortgagee, the Board, the Association, FNMA, or the designee of FNMA.

**13.9.2 Payments Contingent.** By the terms of the Restated Declaration, Bylaws, or policy, payments are contingent upon action by the carrier's board of directors, policyholders, or member; or

**13.9.3 Mortgagee Limitation Provisions.** The policy includes any limited clauses (other than insurance conditions) which could prevent the party entitled (including, without limitation, the Board, the Association, an Owner, FNMA, or the borrowers) from collecting insurance proceeds.

**13.10 Intent.** The foregoing provisions shall not be construed to limit the power or authority of the Association, Board or Owners to obtain and maintain insurance coverage, in addition to any insurance coverage required hereunder, in such amounts and in such forms as the Board or Association may deem appropriate from time to time.

#### Article 14

#### MORTGAGEE PROTECTION

The lien or claim against a Lot for unpaid Assessments levied by the Board or by the Association pursuant to this Restated Declaration or the Act shall be subordinate to any Mortgage recorded on or before the date such Assessments become due, subject to the following:

**14.1 Effects of Voluntary and Involuntary Sale.** The lien or claim against a Lot for such unpaid Assessments shall not be affected by any sale or transfer of such Lot, except that a sale or transfer pursuant to a foreclosure of the Mortgage affecting such Lot or the exercise of a power of sale available thereunder shall extinguish any debt payable prior to such sale or transfer. Nevertheless, any such unpaid Assessments which are extinguished in accordance with the foreclosure or power of sale shall not relieve the purchaser or transferee of such Lot from liability for, nor such Lot the lien of any Assessments becoming due thereafter.

**14.2 Books and Records Available for Inspection.** The Board or the Association shall make available to the Owners, to Mortgagees, and lenders, and to holders, insurers, or guarantors of any Mortgage current copies of the Restated Declaration, Bylaws, Articles of Incorporation, and administrative rules and regulations concerning the Project, as well as the books, records, and financial statements of the Board and the Association. The term "Available", as used in the Paragraph, shall mean available for reasonable inspection upon reasonable notice and

request during normal business hours or under other reasonable circumstances. The Association shall have the right to recover its photocopying and service charges incurred in making the inspection and photocopying available.

- 14.3 Right to Financial Statement.** The holder, insurer or guarantor of any Mortgage shall be entitled, upon written request, to a financial statement for the immediately preceding fiscal year. Any financial statement requested pursuant hereto shall be furnished to the requesting party within a reasonable time following such request.
- 14.4 Management Contracts.** Any agreement for professional management of the Project, and any contract for goods or services, or any lease which is entered into by the Board or the Association shall provide or be deemed to provide hereby that either party may terminate the contract with or without cause upon at least thirty (30) days prior written notice to the other party thereto.
- 14.5 Eligible Mortgagee Designation.** Upon written request to the Board or the Association by the holder, insurer, or guarantor of a Mortgage (which request identifies the name and address of such holder, insurer or guarantor and the address of the property encumbered by the Mortgage held or insured by such holder, insurer, or guarantor), such holder, insurer, or guarantor shall be deemed thereafter to be an "Eligible Mortgagee" or "Eligible Insurer" or "Eligible Guarantor", as the case may be, shall be included on the appropriate lists maintained by the Association, and shall be entitled to timely written notice of any of the following:
- 14.5.1 Condemnation Loss or Award.** Any condemnation loss or any casualty loss which affects a material portion of the Project or any Lot on which there is a Mortgage held, insured, or guaranteed by such Eligible Insurer or Guarantor.
- 14.5.2 Delinquency.** Any delinquency in the payment of Assessments owed by an Owner of a Lot subject to a Mortgage held, insured or guaranteed by such Eligible Insurer or Guarantor, which delinquency remains uncured for a period of sixty days.
- 14.5.3 Lapse of Insurance.** Any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Board or the Association.
- 14.5.4 Consent Required.** Any proposed action which would require the consent of a specified percentage of Eligible Mortgagees.
- 14.6 No Right of First Refusal.** The right of an Owner to sell, transfer, or otherwise convey his Lot shall not be subject to any right of first refusal or similar restriction.

## Article 15

### AMENDMENT

This Restated Declaration may be amended as follows:

- 15.1 Consent of the Owners.** The affirmative vote of at least Sixty seven percent (67%) of the

Owners shall be required and shall be sufficient to amend the Restated Declaration or the Plat Maps. Any amendment so authorized shall be accomplished through the recordation of an instrument executed by the Board. In such instrument the Board shall certify that the vote required by this Section for amendment has occurred, and, if approval of a specified percentage of Eligible Mortgagees is required for such amendment, that such approval has been obtained; and

- 15.2 **Consent of Eligible Mortgagee.** The consent of at least sixty-seven percent (67%) of the Eligible Mortgagees shall be required to any amendment which would terminate the legal status of the Project; and the consent of Eligible Mortgagees holding at least fifty-one percent (51%) of the undivided Ownership interest in the Common Areas shall be required to add to or amend any material provision of this Restated Declaration or the Plat Maps which establishes, provides for, governs, or regulates any of the following: (1) voting rights; (2) increases in assessments that raise the previously assessed amount by more than 25%, assessment liens, or the priority of assessment liens; (3) reductions in reserves for maintenance, repair, and replacement of the Common elements; (4) insurance or fidelity bonds; (5) limitations and restrictions on the right to use of the Common Areas; (6) responsibility for maintenance and repairs; (7) expansion or contraction of the Project or the addition, annexation or withdrawal of property to or from the Project; (8) the boundaries of any Lot; (9) the percentages of Ownership interest in the Common Areas; (10) convertibility of a Lot into Common Areas or Common Area into a Lot; (11) the imposition of any right of first refusal or similar restriction on the right of an Owner to sell, transfer, or otherwise convey his Lot; (12) express benefits or rights of Mortgagees, Eligible Mortgagees, or Eligible Insurers or Guarantors; and (13) the requirement that the Project be professionally managed rather than self managed. Any addition or amendment shall not be considered material for purposes of this Paragraph (b) if it is for clarification only or to correct a clerical error. Notice of any proposed amendment to any Eligible Mortgagee to whom a written request to approve an addition or amendment to this Restated Declaration or the Plat Maps is required shall be mailed postage prepaid to the address for such Mortgagee shown on the list maintained by the Association. Any Eligible Mortgagee who does not deliver to the Board or the Association a negative response to the notice of the proposed amendment within thirty (30) days from the date of such mailing shall be deemed to have approved the proposal. The foregoing consent requirements shall not be applicable to amendments to this Restated Declaration and the Plat Maps or the termination of the legal status of the Project as a planned unit development, if such amendments or such termination are made or accomplished in accordance with the provisions of this Restated Declaration regarding Condemnation or Substantial Obsolescence.

## Article 16

### DISPUTE RESOLUTION

- 16.1 In the event a claim is made that a Lot Owner or resident has violated the Project Documents, the Owner or resident shall be entitled to the following:
- 16.1.1 **Notice in Writing.** Written notice specifying the nature of the violation (and providing any other appropriate information), and stating the time, date and place when the Owner or resident will have an opportunity to be heard by the Board.

- 16.1.2 **Hearing.** The right to a hearing in front of the Board.
- 16.2 **Schedule and Manner of Providing Notice.** Notice may be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered seventy-two (72) hours after it has been deposited in the United States mail, first class postage prepaid, addressed to the member at the address given by the member to the Board for the purpose of service of notice or the address of the member's Lot if no other address has been provided. Any address may be changed from time to time by giving written notice to the Board.
- 16.3 **Right to Assess Costs and Fines.** If the violation, or the failure to correct or remedy a violation, results or may result in the expenditure of funds, the notice shall also state that the Board may vote to assess the adverse party, levy a fine, or impose other sanctions if the Board finds that a violation has occurred, as authorized by Utah law.
- 16.4 **Final Determination.** After the hearing has taken place, the Board shall (1) determine whether a violation has occurred and, if so, may impose a fine or issue sanctions which shall become effective not less than five (5) days after the date of the hearing; or (2) take such other action as may be appropriate. The determination of the Board shall be final. However, nothing herein shall be construed to prevent the Board from making any emergency repairs or taking any other emergency action it deems necessary and subsequently providing Notice and Hearing.

## Article 17

### MISCELLANEOUS

- 17.1 **Interpretation.** To the extent Utah law is consistent with this Restated Declaration, such provisions shall supplement the terms hereof and are incorporated herein. The captions, which precede the Articles and Sections of this Restated Declaration, are for convenience only and shall in no way affect the manner in which any provision hereof is construed. Whenever the context so requires, the singular shall include the plural, the plural shall include the singular, the whole shall include any part thereof, and any gender shall include both other genders. The invalidity or unenforceability of the remainder hereof.
- 17.2 **Covenants to Run with Land.** This Restated Declaration and all the provisions hereof shall constitute covenants to run with the land or equitable servitude's, as the case may be, and shall be binding upon and shall inure to the benefit of Association, all other signatories hereto, all parties who hereafter acquire any interest in a Lot or in the Project, and their respective grantees, transferees, heirs, devisees, personal representative, successors, and assigns. Each Owner or resident of a lot shall comply with, and all interests in all Lots shall be subject to, the terms of this Restated Declaration and the provisions of any rules, regulations, agreements, instruments, supplements, amendments, and determinations contemplated by this Restated Declaration. By acquiring any interest in a Lot in the Project, the party acquiring such interest consents to, and agrees to be bound by, each and every provision of this Restated Declaration.
- 17.3 **Enforcement and Right to Recover Attorney's Fees.** The Association, Board, or any Lot

Owner may take action, at law or in equity, to enforce the terms, covenants or conditions of the Project Documents. Should the Association, Board or a Lot Owner be required to take action to enforce the Project Documents, or to pursue any remedy provided hereunder or by applicable law, whether such remedy is pursued by filing suit or otherwise, they may recover all Additional Charges, including a reasonable attorney fee, which may arise or accrue.

- 17.4 **Security.** The Association may, but shall not be obligated to, maintain or support certain activities within the Project designed to make the Project safer than it otherwise might be. However, neither the Association nor the Board shall in any way be considered insurers or guarantors of security within the Project. Neither the Association nor the Board shall be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken. All Owners and residents, their guests and invitees, as applicable, acknowledge that neither the Association nor the Board represent or warrant that any security measures undertaken will insure their safety. All Owners and residents, their guests and invitees, acknowledge and understand that the Association and Board are not insurers of their safety and they hereby assume all risks for loss or damage to their person or property and further acknowledge that the Association and Board have made no representations or warranties, nor have they relied upon any representations or warranties, expressed or implied, including any warranty or merchantability or fitness for any particular purpose, relative to any security measures undertaken within the Project.
- 17.5 **Mechanics Liens.** Mechanics liens shall be filed in the office of the County Recorder as follows:
- 17.5.1 **Association/Goods or Services.** Mechanics liens for labor, materials or supplies purchased by the Association shall be filed against all Lot Owners in the Project and their appurtenant interest in the Common Area, and shall be indexed in the public records under the name of the Association. If the Association has encumbered the Common Areas and thereafter defaults on its obligations, the lienholder must exercise its rights against the Common Areas before it may proceed against any Lot. Any Owner wishing to release that lien as to his Lot may pay the pro rata share of the total amount of the lien and that shall be sufficient to release the lien against his Lot.
- 17.5.2 **Lot Owner/Goods or Services.** Mechanics liens filed for labor, materials or supplies benefitting a particular Lot shall be filed against that Lot and its appurtenant interest in the Common Area. No mechanics liens or claims may be filed against the Association as the result of labor or material supplied to a Lot.
- 17.5.3 **Constructive Consent.** Any person or entity who elects to perform labor or provide materials at this Project agrees to be bound by and subject to the terms of this Section.
- 17.6 **Architectural Guidelines and Review.** The Project is subject to and bound by the following architectural guidelines:
- 17.6.1 **Association.** The Association, acting through the Architectural Review Board



appointed by the Board ("ARC"), shall assume jurisdiction over architectural matters hereunder. The ARC, when appointed shall consist of at least three (3) but not more than seven (7) persons who shall serve and may be removed and replaced at the Board's discretion. The members of the ARC may be the members of the Board but need not be members of the Association or representatives of Members, and may, but need not, include architects, engineers or similar professionals, whose compensation, if any, shall be established from time to time by the Board. If the ARC is not created, the Board shall serve as the ARC.

- 17.6.2 **Fees.** For purposes of this Section, the entity having jurisdiction in a particular case shall be referred to as the "Reviewer". The Reviewer may establish and charge reasonable fees for review of applications hereunder and may require such fees to be paid in full prior to review of any application. Such fees may include the reasonable costs incurred in having any application reviewed by architects, engineers or other professionals. The Association may employ architects, engineers, or other persons as deemed necessary to perform the review. The Board may include the compensation of such persons in the Association's annual operating budget as a common expense.
- 17.6.3 **No Waiver of Future Approvals.** The approval of the ARC or Board of any proposals or plans and specifications or drawings for any work done or proposed, or in connection with any other matter requiring their approval or consent, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings or matters whatever subsequently or additionally submitted for approval and consent.
- 17.6.4 **Variance.** The Board or ARC may authorize variances from compliance with any of the provisions of the design guidelines when circumstances such as topography, natural obstructions, hardship, aesthetic, or environmental considerations require, but only in accordance with its architectural rules and regulations as they may be adopted from time to time. Such variances may only be granted however when unique circumstances dictate and no variance shall (1) be effective unless in writing, (2) be contrary to the restrictions set forth in the body of this document, or (3) estop the Board from denying a variance in other circumstances. For purposes of this Section, the inability to obtain approval of any governmental agency, the issuance of any permit or the terms of financing shall not be considered a hardship warranting a variance.
- 17.6.5 **Limitations of Liability.** Neither the Association, Board nor the ARC, nor any of their agents, employees, representatives or consultants shall be responsible in any way for any defects in any plans or specifications submitted, revised or approved in accordance with the provisions of this Restated Declaration, nor for any structural or other defects in any work done according to such plans and specifications. In any event, the Association, Board and ARC, their agents, representatives, members, employees and consultants shall be indemnified and held harmless by the Lot Owner, including the cost of defending against any such action, claim or demand.

- 17.6.6 **Enforcement.** Any construction, alteration, or other work done in violation of this Section shall be deemed to be nonconforming. Upon written request from the Board or the ARC, Owners shall, at their own cost and expense, remove such construction, alteration, or other work and shall restore the land to substantially the same condition as existed prior to the construction, alteration or work. Should an Owner fail to remove and restore as required hereunder, the Board or its designees shall have the right to enter the property, remove the violation, and restore the property to substantially the same condition as existed prior to the construction, alteration or other work. All costs, together with the interest at the maximum rate then allowed by law, may be assessed against the benefitted Lot and collected as an Individual Assessment.

Any contractor, subcontractor, agent, employee, or other invitee of an Owner who fails to comply with the terms and provisions of this Section and the design guidelines may be excluded by the Board from the Project, subject to the notice and hearing procedures set forth in the Project Documents. In such event, neither the Association, Board nor the ARC shall be held liable to any person for exercising the rights granted by this Section.

In addition to the foregoing, the Board shall have the authority and standing, on behalf of the Association, to pursue all legal and equitable remedies available to enforce the provisions of this Section and the decisions of the ARC.

- 17.6.7 **Design Guidelines.** The Association shall prepare the initial design guidelines which may contain general provisions applicable to the Project as well as specific provisions which may vary from one area of the Project to another depending upon the intended use, theme, design, and unique characteristics of the area. The design guidelines shall include the following items:

- (a) **Building Guidelines.** Setbacks, window treatments, window coverings, masonry finishes, roofing materials, colors, antennas and satellite dish, and garages;
- (b) **Fencing.** Permitted types, materials, sizes and locations.
- (c) **Landscaping.** Plant materials, gravel, pruning, ornamentation, maintenance, and water conservation.
- (d) **Screening.** Garbage and refuse, vehicles, firewood, swimming pools and hot tubs, mechanical equipment and utilities, sports equipment, dog houses and runs.
- (e) **Miscellaneous.** Signage, mail boxes, exterior lighting, street lighting, sports equipment such as basketball goals and backboards, hockey and soccer nets, ancillary structures, driveways, retaining walls, and site grading.

17.7 **Second Hand Smoke.** Smoking or the use of tobacco products is not prohibited in the

Buildings, Units or Common Area and Facilities; provided, however, the Association expressly reserves the right to prohibit smoking or the use of tobacco products in the Common Area and Facilities, although the Unit Owners and residents shall be given at least thirty (30) days prior written notice of any change in policy. In addition:

- 17.7.1 **Nuisance Defined.** Utah Code Annotated, Section 78B-6-1101 defines a “nuisance” so as to include tobacco smoke that drifts into any Unit a person rents, leases or owns from another Unit more than once in each of two (2) or more consecutive seven (7) day periods which is injurious to health, indecent, offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property. The Association adopts this definition until such time as it is amended or repealed by the Utah legislature at which time this definition shall be similarly and automatically amended or repealed.
- 17.7.2 **Release, Waiver & Indemnity.** By accepting a deed or other document of conveyance to a Unit, each Owner hereby expressly waives, releases and forever discharges, and further agrees to indemnify, save and hold the Association, Board and members of the Board harmless against any and all claims, suits, actions, debts, damages, costs, charges and expenses, including court costs and attorney fees, and against all liability, losses and damages of any nature whatever, arising out of the smoking or tobacco products in, on or about the Project, including but not limited to any claim that the Association or Board abate or attempt to abate any alleged nuisance caused by smoking tobacco products.
- 17.7.3 **Reservation of Right of Action.** Anything to the contrary notwithstanding, the right of action of a Unit Owner or resident created by Utah Code Annotated, Section 78B-6-1101 against another Unit Owner or resident who creates a nuisance by generating tobacco smoke is expressly recognized and reserved, conditioned upon the existence of the statutory remedy or its equivalent, and the Association shall approve any reasonable structural alterations to the Common Areas and Facilities to abate this nuisance provided the alterations (a) do not impair the structural integrity of the buildings or improvements, (b) do not materially alter the nature of the Project, (c) do not damage another Unit, and (d) are paid for by the Unit Owner or resident.
- 17.8 **Agent for Service of Process.** The President of the Association shall be the person to receive service of process in the cases authorized by the Act and the office. The Registered Agent shall be Richard W. Jones and the office of the Registered Agent shall 4605 Harrison Blvd, Third Floor, Ogden, Utah 84403. The Board of Directors shall have the right to appoint a successor substitute process agent and registered agent without the need to receive approval from the members of the Association. Such successor or substitute agent and his or her address shall be specified by an appropriate instrument filed by the Board with the State of Utah, Department of Commerce, and/or in the office of the County Recorder of Weber County, State of Utah.
- 17.9 **Effective Date.** This Restated Declaration, any amendment or supplement hereto, and any amendment or supplement to the Plat Maps shall take effect upon its being filed for record in the office of the County Recorder of Weber County, Utah.

17.10 **Duration.** These restrictive covenants shall run with the land and shall be binding upon the owners thereof, their heirs, successors and assigns, for a term of twenty (20) years from the date this Restated Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years.

EXECUTED the 22 day of February, 2012.

**Certification**

It is hereby certified that the affirmative vote of at least sixty seven percent (67%) of the Owners of Lots within Roylance Farms P.R.U.D.- Phase II, aka, the Belle Isle Homeowners Association, have voted to approved this Restated Declaration.

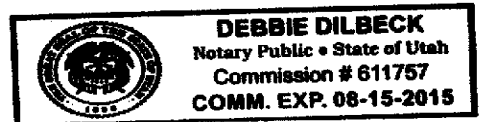
**BELLE ISLE HOMEOWNERS ASSOCIATION**

By: [Signature]  
Title: President

STATE OF UTAH            )  
  ss.  
COUNTY OF UTAH        )

On the 22 day of February, 2012, personally appeared before me Nathan Kester, who by me being duly sworn, did say that he is the President of Belle Isle Homeowners Association, and that the within and foregoing instrument was signed in behalf of said Association pursuant, and did duly acknowledged to me that said corporation executed the same.

[Signature]  
NOTARY PUBLIC



**EXHIBIT "A"**

**Legal Description of Lots**

**ALL OF ROYLANCE FARMS PRUD PHASE 2, 3RD AMENDMENT,  
NORTH OGDEN CITY, WEBER COUNTY, UTAH.**

**EXHIBIT "B"**

**ARTICLES OF INCORPORATION**

**ARTICLES OF INCORPORATION  
OF  
BELLE ISLE HOMEOWNERS ASSOCIATION, INC.**

The undersigned adult natural person, acting as incorporators, hereby establishes a nonprofit corporation pursuant to the Utah Revised Nonprofit Corporation Act (the "Act") and adopts the following articles of incorporation for such corporation;

**ARTICLE I**

**NAME**

The name of the corporation is Belle Isle Homeowners Association, Inc. (hereinafter the "Association").

**ARTICLE II**

**DURATION**

The Association shall have perpetual existence.

**ARTICLE III**

**PURPOSES AND POWERS**

1. **Purposes** The Association is organized as a nonprofit corporation and shall be operated to promote the health, safety and welfare of all members of the Association in connection with the Belle Isle Homeowners and to establish, provide, and maintain a desirable community and environment for all member unit owners.
2. **Powers** In furtherance of the foregoing purposes, but not otherwise, and subject to the restriction set forth in Section 3 of this article, the Association shall have and may exercise all of the powers now or hereafter conferred upon nonprofit corporations organized under the laws of Utah and may do everything necessary or convenient for the accomplishment of any of the corporate purposes, either alone or in connection with other organizations, entities or individuals, and either as principal or agent, subject to such limitations as are or may be prescribed by law.
3. **Restrictions Upon Purposes and Powers** The foregoing purposes and powers of the Association are subject to the following limitations:
  - a. **Earnings of Association** That no part of the net earnings of the Association (if any) shall inure to the personal benefit of any member of the Association; however, this restriction shall not limit or impair the Association's right to compensate Members for services rendered or for goods sold or leased to the Association;
  - b. **Nonprofit Organization** That the Association shall be organized and operated exclusively for non-profitable purposes as set forth in Section 528 of the Internal

Revenue Code as it is now or may hereafter be amended, or in any corresponding provision of any future law of the United State of America providing for exemption of similar organizations from income taxation; and

- c. **Association Participating in Litigation** The Association shall not participate in any litigation which is, or purports to be, a "class action" without first obtaining approval of at least 75 percent of its Members.
4. **Dividends, Distribution, etc.** The Association shall not pay any dividends. No distribution of the corporate assets to Members (as such) shall be made except as permitted by the Internal Revenue Code and U.C.A. § 57-8-24. Upon dissolutions of the Association, the assets shall be distributed as provided in Article X herein.

## 5. MEMBERSHIP AND VOTING

- a. **Members** The Association shall have Members. Every Owner of a Unit which is subject to assessment shall be a Member of the Association. Each membership shall be pertinent to and may not be separated from, ownership of the Unit to which the membership is attributable.
- b. **Stock** No stock in the Association shall be issued. The Board may, in its discretion, issue certificates evidencing a Member's membership in the Association. A person's membership, however, is not affected by the holding of such a certificate and a Member is entitled to all the benefits and subject to all obligation of membership whether or not the Member holds a membership certificated.
- c. **Voting** The Association shall have one class of voting membership. Each Unit shall be entitled to one vote on any given matter, regardless of the number of Members owing an interest in such Unit. The Members owning a particular Unit are authorized to cast the vote attributable to the Unit. The Board may suspend the voting rights of Members for a particular Unit if the Members are in violation of the Declaration. The Association shall have no note as to Units owned by it.
- d. **Right to Vote** No change in the ownership of a membership shall be effective for voting purposes unless and until the Board is given actual written notice of such change and is provided satisfactory proof thereof. The vote for each Unit must be cast as a unit, and factional votes shall not be allowed. If a Unit is owned by more than one person or entity and such owners are unable to agree among themselves as to show their vote or votes shall be cast, they shall not be entitled to vote on the matter in question. If any Member casts a vote representing a certain Unit, it will thereafter be conclusively presumed for all purposes that he was acting with the authority and consent of all other Owners of the same Unit unless objection thereto is made at the time the vote is cast. If more than one vote is cast for particular Unit, none of the said votes shall be counted and all said votes shall be deemed void. Voting by proxy is allowed as set forth in the Association's Bylaws.
- e. **No Cumulative Voting** In any election of the members of the Board, the Owner(s) of a given Unit shall collectively have one vote for each Director position to be elected.



The candidate receiving the highest number of votes for a given Director position shall be deemed elected to such position. Cumulative voting shall not be allowed in the election of members of the Board or for any other purpose.

- f. **Transfer of Membership** The rights and obligations of memberships in the Association shall not be assigned, transferred, pledged, conveyed or alienated in any way except upon transfer of ownership to an Owner's Unit and then only to the new Owner of the Unit. A transfer of ownership to a Unit may be effected by deed, intestate succession, testamentary disposition, foreclosure of a mortgage of record, or such other legal process as now in effect or as may hereafter be established under or pursuant to the laws of the State of Utah. Any attempt to make a prohibited transfer shall be void. Any transfer of ownership to a Unit shall automatically transfer the membership appurtenant to said Unit to the new Owner thereof.

**6. SHARE OF STOCK**

The Association shall not issue any shares of stock.

**7. DIRECTORS**

The management of the affairs of the Association shall be vested in a Governing Board of Directors, except as otherwise provided in the Act, these articles of incorporation or the bylaws of the Association. The number of Directors, their classification, if any, their terms of office and the manner of their election or appointment shall be determined according to the bylaws of the Association from time to time in force.

Three Directors shall constitute Governing Board of Directors. Their names and addresses are as follows:

	<u>Name</u>	<u>Address</u>
1.	Nathan Kester	1860 N 150 E., N. Ogden, UT 84414
2.	Larry Goodwin	101 E. 1875, N. Ogden, UT 84414
3.	Jordan Bodily	211 W. 1875 N., Ogden, UT 84414
4.	Heidi Bodily	211 W. 1875 N., Ogden, UT 84414

**8. BYLAWS**

The initial bylaws of the Association are those bylaws adopted as the bylaws of the Association in connection with the Restated Declaration that is approving of these articles of incorporation. The bylaws of the Association may contain any provisions for the regulation or management of the affairs of the Association which are not inconsistent with law or these articles of incorporation, as these articles may from time to time be amended.

**9. INITIAL PRINCIPAL OFFICE, REGISTERED OFFICE AND AGENT**

The address of the initial principal office of the Association is Belle Isle Homeowners Association, 1860 N 150 E, North Ogden, UT 84414 (P.O. Box 13635, Ogden, Utah 84414). The address of the initial registered office is 4605 Harrison Blvd., Third Floor, Ogden, Utah 84403. The name of the Association's registered agent at such address is Richard W. Jones.

**10. DISSOLUTION**

The Association may be dissolved only upon termination of Restated Declaration for the Belle Isle Homeowners Association. Written notice of a proposal to dissolve, setting forth the reasons therefore and the disposition to be made of the assets, as set forth below, shall be mailed to every Member at least 90 days in advance of any action taken. Upon dissolution of the Association, the assets both real and personal of the Association, shall be distributed according to the provisions of the Act and U.C.A. § 57-8a-101 et al.

**11. INCORPORATOR**

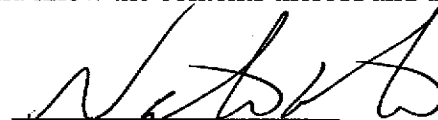
The name and address of the incorporator of this Association is:

Nathan Kester  
1860 N 150 E  
N. Ogden, UT 84414

**12. AMENDMENT**

The Association may amend these Articles of Incorporation by a vote of not less than 66.7% of the members.

IN WITNESS WHEREOF, I, Nathan Kester, have executed these Articles of Incorporation this 22 day of February, 2011, and say: That I am the incorporator herein and have read the above and foregoing Articles of Incorporation and know the contents thereof and that the same is true to the best of my knowledge and belief.

  
Nathan Kester

**ACKNOWLEDGMENT OF ACCEPTANCE BY REGISTERED AGENT**

The undersigned hereby accepts and acknowledges appointment as the initial registered agent of the Association named above.

  
Richard W. Jones

EXHIBIT "C"

**Bylaws**  
of  
**Belle Isle Homeowners Association, Inc.**

**Bylaws**  
of  
**Belle Isle Homeowners Association, Inc.**

The following are adopted as the Bylaws of Belle Isle Homeowners Association, Inc.

**Article 1**

**PLAN OF LOT OWNERSHIP AND INCORPORATION**

- 1.1 **Submission.** These Bylaws are referred to and incorporated by reference in the foregoing Amended and Restated Declaration of Covenants, Conditions and Restrictions of Belle Isle ("Restated Declaration"), which is located in Weber County, State of Utah. These Bylaws shall govern the administration of Belle Isle and its Association of Lot Owners.
- 1.2 **Conflict.** In the event of any conflict, incongruity or inconsistency between the provisions of these Bylaws and the provisions of the Restated Declaration, the latter shall in all instances govern and control.
- 1.3 **Office and Registered Agent.** The name and address of the person authorized to receive service of process in behalf of the Association is:

Richard W. Jones  
4605 Harrison Blvd.  
Ogden, UT 84403

The Board of Directors shall have the right to appoint a successor substitute process agent and registered agent without the need to receive approval from the members of the Association. Such successor or substitute agent and his or her address shall be specified by an appropriate instrument filed by the Board with the State of Utah, Department of Commerce, and/or in the office of the County Recorder of Weber County, State of Utah.

- 1.4 **Bylaws Applicability.** All present and future Owners, residents, tenants, renters, lessees, and their guests, licensees, invitees, servants, agents or employees, and any other person or persons who shall be permitted entrance at Belle Isle shall be subject to and abide by these Bylaws.
- 1.5 **Definitions.** The capitalized words herein shall have the same meaning as set forth in Article I of the Restated Declaration.

**Article 2**

**ASSOCIATION**

- 2.1 **Composition.** The Association of lot owners is a mandatory Association consisting of all Lot Owners at the Project.

- 2.2 **Voting.** Each Lot shall have one (1) vote. Multiple owners must elect a representative to cast their vote. A vote cast, without objection, by an apparent representative of multiple owners shall be binding upon the parties. Entities may vote by means of their authorized agent.
- 2.3 **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.
- 2.4 **Annual Meeting.** Unless otherwise designated by the Board, the annual meeting of the Association shall be held at 7:00 o'clock p.m. on the second Tuesday of October of each year, or at such other suitable day, date and time as may be designated by the Board from time to time. When such day is a legal holiday, the meeting shall occur on the first business day thereafter. Provided however, that the Board of Directors may by resolution, fix the date of the annual meeting at such other date as the Board may deem appropriate. The place of meeting shall be the principal office of the Association unless otherwise specified in the notice of meeting.
- 2.5 **Special Meetings.** The President shall call a special meeting (a) if he so desires, (b) if a majority of the members of the Board direct him to do so, or (c) upon receipt of a petition signed and presented to the Secretary of the Board by at least twenty-five percent (25%) of the members of the Association. The notice of any special meeting shall state the date, time and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting except as stated in the notice.
- 2.6 **Notice of Meeting.** It shall be the duty of the Secretary to hand deliver or mail, by regular U.S. mail postage prepaid, a notice of (a) each annual meeting of the Owners not less than ten (10) and not more than thirty (30) days in advance of such meeting; and (b) each special meeting of the Owners at least three (3) days and not more than twenty (20) days in advance of such meeting, stating the purpose thereof as well as the time and place where it is to be held, to each Owner of record, at the address of his respective Lot or such other address as each Owner may have designated by notice in writing to the Secretary. The mailing of a notice of meeting in the manner provided in this Section shall be considered service of notice.
- 2.7 **Voting Requirements.** An Owner shall be deemed to be in "good standing" and "entitled to vote" at any annual meeting or at any special meeting of the Association if, and only if, he shall be in full compliance with all of the terms, covenants, and conditions of the Project Documents, and shall have fully paid all Assessments and/or Additional Charges due.
- 2.8 **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 Lot Owner is more than one person, by or on behalf of all such persons. No such proxy shall be revocable except by actual written notice to the person presiding over the meeting, by the Lot Owner or by any of such persons, that it be revoked. 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 upon the adjournment of the first meeting held on or after the date of that proxy. Each proxy must be filed with the Secretary of the Board before the meeting. Only individual Lot Owners or the legal representative of an Organizational Lot Owner may be proxies.

- 2.9 **Quorum.** A majority of the members of the Association shall constitute a quorum for the adoption of decisions. If, however, such quorum shall not be present or represented at any meeting, the Owners entitled to vote thereat, present in person or represented by proxy, shall have power to adjourn the meeting and reschedule for a time no earlier than two (2) days nor more than thirty (30) days after the set time for the original meeting. No notice of such rescheduled meeting shall be required except an announcement thereof at the original meeting. The Owners present at the rescheduled meeting shall constitute a quorum for the adoption of decisions. When a quorum is present at any meeting, the vote of the Lot Owners representing a majority of the members of the Association present at the meeting either in person or by proxy, shall decide any question brought before the meeting; provided, however, if the Restated Declaration requires a fixed percentage of Lot Owners to approve any action, however, that percentage shall be required anything to the contrary notwithstanding.
- 2.10 **Order of Business.** The order of business at all meetings of the Association shall be as follows:
- 2.10.1 roll call;
  - 2.10.2 proof of notice of meeting;
  - 2.10.3 reading of minutes of preceding meeting;
  - 2.10.4 reports of officers, if any;
  - 2.10.5 report of special Boards, if any;
  - 2.10.6 election of inspectors of election, if applicable;
  - 2.10.7 election of Board Members, if applicable;
  - 2.10.8 unfinished business; and
  - 2.10.9 new business.
- 2.11 **Conduct of Meeting.** The President shall, or in his absence the Vice-President, preside over all meetings of the Association; the Secretary shall keep the minutes of the meeting and record in a minute book all resolutions adopted by the meeting as well as record of all transactions occurring thereat.

### Article 3

#### BOARD

- 3.1 **Powers and Duties.** The affairs and business of the Association shall be managed by the Board of Directors. 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 Restated Declaration, and may do all such acts and things necessary to operate and maintain the Project. The Board may delegate its authority to a manager or managers. Subject to any limitations or provisions contained in the Restated Declaration, the Board shall be

responsible for at least the following:

- 3.1.1 Preparation of an annual budget;
- 3.1.2 Determining the annual assessment of each Owner;
- 3.1.3 Managing the Association;
- 3.1.4 Maintaining the Common Areas and Facilities;
- 3.1.5 Collecting the Assessments;
- 3.1.6 Depositing the collections into a federally insured interest bearing account or accounts;
- 3.1.7 Adopting and amending rules and regulations;
- 3.1.8 Enforcing the Project Documents;
- 3.1.9 Opening of bank accounts on behalf of the Association and designating the signatories required therefor.
- 3.1.10 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 Restated Declaration and other provisions of these Bylaws, after damage or destruction by fire or other casualty.
- 3.1.11 Commencing legal action when necessary;
- 3.1.12 Purchasing and maintaining insurance;
- 3.1.13 Paying the cost of all services rendered to the Project and not billed directly to Owners of individual Lots.
- 3.1.14 Keeping books and records of the Association;
- 3.1.15 Providing common utility services;
- 3.1.16 Paying any amount necessary to discharge any mechanic's or materialmen's lien or other encumbrance levied against the Common Area or Facilities;
- 3.1.17 Giving notice of alleged violations of the Project Documents and providing the alleged violator the opportunity to be heard;
- 3.1.18 Levying fines, sanctions and citations;
- 3.1.19 Making emergency repairs;

- 3.1.20 Towing or impounding motor vehicles;
  - 3.1.21 Evicting non-Owner residents in material violation of the Project Documents or who have created and failed to abate a nuisance;
  - 3.1.22 Charging user fees and rents for the Recreational Vehicle parking area;
  - 3.1.23 Assigning parking spaces; and
  - 3.1.24 Doing such other things and acts necessary to accomplish the foregoing.
- 3.2 **Composition of Board.** The Board shall be composed of three (3) members of the Association.
- 3.3 **Qualification.** Only individual Lot Owners or officers or agents of organizational Owners other than individuals shall be eligible for Board Membership.
- 3.4 **Election and Term of Office of the Board.** The term of office of membership on the Board shall be two (2) years and each member shall serve on the Board until such time as his successor is duly qualified and elected.
- 3.5 **Initial Organizational Meeting.** The first meeting of the members of the Board shall be immediately following the annual meeting of the Association or at such other time and place designated by the Board.
- 3.6 **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, but no less often than monthly.
- 3.7 **Special Meetings.** Special meetings of the Board may be called by the President, Vice-President or a majority 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, 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.
- 3.8 **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 such 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.
- 3.9 **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. If, at any meeting of the Board, there be less than a quorum present, the majority of those present may adjourn the meeting from time to time but for no longer than



two (2) days. At any such rescheduled meeting, any business which might have been transacted at the meeting as originally called may be transacted without further notice.

- 3.10 **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 promptly 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 members of the Association at a special meeting called for that purpose shall be filled by the election and vote of the members of the Association at said meeting.
- 3.11 **Removal of Board Member.** A member may be removed, with or without cause, and his successor elected, at any duly called regular or special meeting of the Association at which a quorum of the Association is present, by an affirmative vote of a majority of the members of the Association. Any member whose removal has been proposed by the Owners shall be given at least thirty (30) 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 twenty-five percent (25%) or more of the Board Meetings in any calendar year or who misses three (3) consecutive meetings in any calendar year, shall be automatically removed from the Board.
- 3.12 **Compensation.** The Association president, vice-president, secretary and treasurer shall receive \$100 per month as compensation for their services, effective May 1, 2010. Amounts received by the board after May 1, 2010, but prior to the vote approving this Restated Declaration are hereby ratified and approved. Board members shall also be reimbursed for all expenses reasonably incurred in connection with Board business and approved by the Board. The amount of compensation received by the president, vice-president, secretary and treasurer as set forth in this paragraph may be modified upon approval of not less than fifty-one percent (51%) of the Owners in attendance at a special or annual meeting of the Association.
- 3.13 **Conduct of Meetings.** The President shall preside over all meetings of the Board and the Secretary shall keep a Minute Book of the Board recording therein all resolutions adopted by the Board and a record of all transactions and proceedings occurring at such meetings, subject to the following:
- 3.13.1 **Open Meetings.** A portion of each meeting of the Board shall be open to all members of the Association, but members 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. The Board shall establish procedures, policies, and guidelines for conducting of its meetings, retiring to executive session, and prohibiting photographs and/or any electronic (video or audio) recordation of the meetings, or any part thereof.
- 3.13.2 **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.

- 3.13.3 **Action Without a Formal Meeting.** Any action to be taken at a meeting of the Board may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all members of the Board.
- 3.14 **Report of Board.** The Board shall present at each annual meeting, and when called for by vote of the Association at any special meeting of the Association, a full and clear statement of the business and condition of the Association.

#### Article 4

#### OFFICERS

- 4.1 **Designation.** The principal officers of the Association shall be a President, a Vice-President, a Secretary and a Treasurer, all of whom shall be elected by the Board. The Board may appoint assistant secretaries and such other officers as in its judgment may be necessary. All officers shall also be members of the Board. Two or more offices may be held by the same person, except that the President shall not hold any other office.
- 4.2 **Election of Officers.** The officers of the Association shall be elected annually by the members of the Board at their first meeting after the annual meeting of the Association. Any vacancy in an office shall be filled by the remaining members of the Board at a regular meeting or special meeting called for such purpose.
- 4.3 **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.
- 4.4 **President.** The President shall be the chief executive officer; he shall preside at meetings of the Association and the Board and shall be an ex officio member of all Boards; 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.
- 4.5 **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.
- 4.6 **Secretary.** The Secretary shall attend all meetings of the Board and all meetings of the

Association and record all votes and the minutes of all proceedings in a book to be kept by him or her for that purpose and shall perform like duties for Boards when required. 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. This list shall be open to inspection by all Owners and other persons lawfully entitled to inspect the same, at reasonable hours during regular business days. The Secretary shall also keep current and retain custody of the Minute Book of the Association, containing the minutes of all annual and special meetings of the Association and all sessions of the Board including resolutions.

- 4.7 **Treasurer.** The Treasurer shall have custody of all funds and securities. He 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 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.

#### Article 5

#### FISCAL YEAR

The fiscal year of the Association shall be the calendar year consisting of the twelve month period commencing on January 1 of each year terminating on December 31 of the same year. The fiscal 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 6

#### AMENDMENT TO BYLAWS

- 6.1 **Amendments.** These Bylaws may be modified or amended either (i) by the affirmative vote of a majority of the members of the Association, or (ii) 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.
- 6.2 **Recording.** An amendment to these Bylaws shall become effective immediately upon recordation in the Office of the County Recorder of Weber County, State of Utah.

#### Article 7

#### NOTICE

- 7.1 **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.

- 7.2 **Waiver of Notice.** Whenever any notice is required to be given under the provisions of the statutes, the Restated 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 Restated Declaration.
- 7.3 **Notification by Website and Email.** The Association desires to communicate electronically with Members to the fullest extent possible. Any notice sent to Members under the provisions of the Restated Declaration or these Bylaws may be sent by electronic means, including text message, email, or the Association's website. The Association shall maintain records of all notices sent to Members by electronic means, including the electronic address or other address to which notice was sent. A member may, by written demand, require the Association to provide notice to the lot owner by mail.

#### Article 8

##### COMPLIANCE, CONFLICT, AND MISCELLANEOUS PROVISIONS

- 8.1 **Compliance.** These Bylaws are set forth in compliance with the requirements of the Restated Declaration.
- 8.2 **Conflict.** These Bylaws are subordinate to and are subject to all provisions of the Restated 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 Restated Declaration.
- 8.3 **Severability.** If any provisions of these Bylaws or any section, sentence, clause, phrase, or work, or the application thereof in any circumstance is held invalid, the validity of the remainder of these Bylaws shall not be affected thereby and to this end, the provisions hereof are declared to be severable.
- 8.4 **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.
- 8.5 **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.
- 8.6 **Construction.** Whenever in these Bylaws the context so requires, the singular number shall refer to the plural and the converse; the use of any gender shall be deemed to include both masculine and feminine, and the term "shall" is mandatory and "may" permissive.

8.7 **Effective.** These Bylaws shall be effective upon recording in the Office of the County Recorder of Weber County.

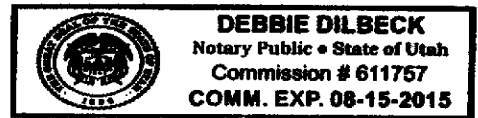
Dated the 22 day of February, 2012.

By: *Nathan Kester*  
Title: President

STATE OF UTAH            )  
  ) ss.  
COUNTY OF UTAH        )

On the 22 day of February, 2012, personally appeared before me Nathan Kester, who by me being duly sworn, did say that he is the President of Belle Isle Homeowners Association, and that the within and foregoing instrument was signed in behalf of said Association, and did duly acknowledged to me that said corporation executed the same.

*Debbie Dilbeck*  
NOTARY PUBLIC



**EXHIBIT "E"**

**4<sup>th</sup> AMENDED PLAT MAP OF BELLE ISLE**

*Roylance Farms P.R.U.D. - Phase II*

**EXHIBIT "D"**

**3<sup>RD</sup> AMENDED PLAT MAP OF BELLE ISLE**

*Roylance Farms P.R.U.D. - Phase II*