

FIFTH AMENDMENT TO DECLARATION OF
COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR CRAIG ESTATES, A CLUSTER SUBDIVISION

24 January 2012

This amendment ("Declaration") is made and executed on the date shown below by the Owners at Craig Estates after having been voted upon and approved.

WHEREAS, the declaration of Covenants, Conditions, and Restrictions for Craig Estates, a cluster subdivision, dated 25 June 1999, was recorded on 1 July 1999, as Entry No. 1529355 in Book 2527 at Page 488 ("The Declaration"), and

WHEREAS, the Declaration was amended pursuant to the **First Amendment** to Declaration of Covenants, Conditions, and Restrictions for Craig Estates Homeowners Association recorded 19 June 2001 as Entry No. 1669001, in Book 2830 Page 719, and

WHEREAS, the Declaration was amended pursuant to the **Second Amendment** to Declaration of Covenants, Conditions, and Restrictions for Craig Estates Homeowners Association recorded on 20 June 2001, as Entry No. 1669153 in Book 2831 at Page 126, and

WHEREAS, the Declaration was amended pursuant to the **Supplemental Declaration** to Declaration of Covenants, Conditions, and Restrictions for Craig Estates Homeowners Association and was recorded on 6 October 2006, as Entry No. 2208797 in Book 4133 at Page 1827, and

WHEREAS, the Declaration was amended pursuant to the **Third Amendment** to Declaration of Covenants, Conditions, and Restrictions for Craig Estates Homeowners Association recorded 15 June 2007, as Entry No. 2280160 in Book 4305 at Pages 86-115, and

WHEREAS, the Declaration was amended pursuant to the **Fourth Amendment** to Declaration of Covenants, Conditions and Restrictions for Craig Estates Homeowners Association and was recorded on 21 July 2008, as Entry No. 2380659 in Book 4577 at Pages 432-467, and

WHEREAS, it is necessary and desirable that the Declaration be superseded and amended in its entirety as provided for herein; and

WHEREAS, the undersigned represent all owners of real property herein referred to,

NOW, THEREFORE, in consideration of the premises and the agreements and consents herein contained, IT IS HEREBY AGREED that the Declaration shall be, and the same is, hereby amended in its entirety and replaced by the following provisions as follows:

RETURNED
JAN 24 2012

E 2639506 B 5443 P 692-716
RICHARD T. MAUGHAN
DAVIS COUNTY, UTAH RECORDER
01/24/2012 01:48 PM
FEE \$101.00 Pgs: 25
DEP RT REC'D FOR CRAIG ESTATES

RECITALS:

NOW, THEREFORE, the property subject to easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of the real property and be binding on all parties having any right, title or interest in the described property or any part thereof, their heirs, successors, and assigns and shall be inure to the benefit of each Owner thereof is located in Davis County, Utah and described as follows:

SEE EXHIBIT "A" ATTACHED

ARTICLE I
Definitions

Unless the context clearly indicates otherwise, certain terms used in this Declaration and the foregoing Recitals shall have the meanings set forth in this Article 1.

1.01 "Assessments" shall have the meaning assigned to it in Article VIII herein.

1.02 "Association" shall mean and refer to Craig Estates Homeowners Association, Inc., (HOA) a Utah non-profit corporation, its successors and assigns.

1.03 "Board of Directors" or "Board" shall mean the governing board of the Association, which is appointed or elected in accordance with this Declaration and the Articles of Incorporation and the Rules and Regulations (R&R) of the Association.

1.04 "Common Area" shall mean all real property (including the improvements thereon) owned by the HOA for the common use and enjoyment of the Owners.

1.05 "Common Expense" shall have the meaning assigned to it in Section 8.04(a) herein.

1.06 "Common Facilities" shall mean all furniture, furnishings, equipment, facilities, and other personal property within the Project for the use and benefit of all Owners and all furniture, furnishings, equipment, facilities, and other real or personal property acquired in accordance with this Declaration by the Association for the use and benefit of all Owners. Common Facilities shall be deemed to be part of the Common Area except as otherwise expressly provided for in this Declaration.

1.07 "Declaration" shall mean this Fifth Amendment to Declaration of Covenants, Conditions, and Restrictions (CC&R) for Craig Estates, a cluster subdivision, dated 9 January 2012.

1.08 "Lien" shall have the meaning assigned to it in Section 9.03.2 herein.

1.09 "Lot" shall mean and refer to any one of the numbered plots of land within the boundary of the Project as such are shown upon and designated on the Plat for private ownership and individually numbered and are intended to be used and occupied by a single family, together with additional numbered plots of land contiguous to the Parcel as shown upon and designated upon subsequently-recorded plats.

1.10 "Lot Number" shall mean and refer to the number, which designates a Lot on the Plat.

1.11 "Mortgage" shall mean any first mortgage, first deed of trust, or other security instrument, which constitutes a first lien by which a Lot, or any part thereof is encumbered.

1.12 "Mortgagee" shall mean (a) any person named as the mortgagee or beneficiary under any Mortgage by which the Lot of any Owner is encumbered on (b) any successor to the interest of such person under such Mortgage.

1.13 "Owner" shall mean any person or entity or combination thereof, which, according to the official records of the County Recorder, Davis County, State of Utah, which is maintained for such purpose, is the owner of fee simple title to any Lot. The term "Owner" shall not refer to any Mortgagee unless such Mortgagee has acquired title for other than security purposes.

1.14 "Parcel" shall mean the real property, as more particularly described in the Recitals above, which is the subject of the Declaration and the Plat.

1.15 "Project" shall mean all areas within the Parcel, including the Lots and Common Area, and any and all improvements constructed thereon which are the subject of this Declaration and the Plat.

1.16 "Plat" shall mean the certain subdivision plat entitled Craig Estates, a Cluster Subdivision, which plat has been recorded in the official records of the County Recorder, Davis County, State of Utah, which are maintained for such purpose, which Plat shall identify and describe all easements which exist on the Property.

1.17 "Regular Assessment" shall have the meaning assigned to it in Section 8.04.

1.18 "Residential Home" shall mean each individual single-family residence, including garages, patios, or other such similar facilities, which are constructed, or shall be constructed, upon each respective Lot within the Project.

1.19 "Rules and Regulations" (R&R) shall have the meaning assigned to it in Section 7.04 herein.

1.20 "Special Assessment" shall have the meaning assigned to it in Section 8.05 herein.

ARTICLE II

Nature and Incidents of Ownership

2.01 Separate Ownership. Each Lot, together with the Residential Homes and any other improvements constructed thereon, is and shall hereafter be a parcel of real property which may be separately held, conveyed, devised, mortgaged, encumbered, occupied, improved and otherwise used in accordance with the provisions of this Declaration.

2.02 Renting/Leasing of Homes – Restrictions

WHEREAS, the home owners of Craig Estates desire to preserve and enhance the quality of life at Craig Estates and have purchased their homes at Craig Estates for the purpose of using their homes as an owner occupied single family residence; and

WHEREAS, the home owners believe the planned Home development living concept was developed to create a real property interest wherein individuals could own their own property and enjoy the benefits that accompany ownership of real property, including the stability associated with real property ownership, both individually and as a neighborhood, as well as the security that comes to a community by having residents who are owners and are committed to the long-term welfare and good of the community; and

WHEREAS, the home owners realize that the value of their homes is directly related to the ability to sell their homes, that the ability to sell their homes is directly related to the ability of prospective borrowers to obtain financing, and that underwriting standards at financial institutions and secondary mortgage markets restrict the percentage of non-owner occupied that can exist in a planned Home development, and further, when too high a percentage of non-owner occupied homes exist in a planned Home development, a buyer will not be able to qualify for favorable and competitive market interest rates and financing terms, thus inhibiting home owners' ability to sell their homes and depressing the value of all the homes at Craig Estates; and

WHEREAS, the home owners desire to live in a community that is orderly, peaceful, well maintained and desirable, and that will allow for and protect the comfortable enjoyment of all residents of Craig Estates, and have determined through the years of their collective experience that home owners are more responsive to the needs of the community, take greater interest and care of the Common Area and are generally more respectful of the Association rules;

THEREFORE, to accomplish the homeowners' objectives, the following information is adopted restricting the lease/rental and lease-to-own arrangements of homes at Craig Estates HOA.

1. For purposes of this section, a "Family Member" means the parent, sibling, child or grandchild of an Owner.

For purposes of this section, a "Non-Owner Occupied Home" means: (a) For a Residential Home owned by one or more individuals, the Residential Home is occupied, but is not occupied by an Owner or an Owner's Family Member as a primary residence; or (b) For a Residential Home owned by a trust or other entity created for estate planning purposes, the Residential Home is occupied, but is not occupied by the estate planner (for whom the trust or other entity was created) or his/her parent, child, grandchild or sibling.

No more than six (6) Residential Homes are permitted to be Non-Owner Occupied Homes at any one time.

All Non-Owner Occupied Homes must be professionally managed by a Board-approved, licensed, bonded, and insured Property Management Company.

Owners are not eligible to have a Non-Owner Occupied Home until they have occupied their Home for a minimum of one (1) year. An Owner must obtain approval from the Board in order to have a Non-Owner Occupied Home. Provided the cap set forth in paragraph 3 has not been met or exceeded, the Board shall grant approval, which approval shall be temporary, in a duration that is determined by the Board in its discretion and does not exceed four (4) cumulative years.

The Board may adopt rules with further management, reporting, and procedural requirements related to Non-Owner Occupied Homes, including requiring that certain information and documentation be provided as part of the approval process. Once the cap set forth in paragraph 3 is reached, the Board shall maintain a waiting list of Owner applicants to be notified when there is an opening.

The Owners of all Homes must comply with the following provisions:

Any lease or agreement for otherwise allowable non-owner occupancy must be in writing, must be for an initial term of at least twelve (12) months, and shall provide as a term of the agreement that the Resident shall comply with the Declaration, the Bylaws, and the Rules, and that any failure to comply shall be a default under the lease or agreement. If a lease or agreement for non-owner occupancy (whether in writing or not) does not include these provisions, they shall nonetheless be deemed to be part of the lease or agreement and binding on the Owner and the Resident;

If required in the Rules of the Association or requested by the Board, a copy of any lease or other agreement for non-owner occupancy shall be delivered to the Association within the time period provided for in the Rules or by the Board;

Notwithstanding any non-owner occupancy, Owners remain responsible for payment of assessments;

A non-owner occupant may not occupy any Home for transient, short-term (less than twelve months), hotel, resort, vacation, or seasonal use (whether for pay or not);

Daily and weekly occupation by non-owner occupants is prohibited (whether for pay or not); and

The Owner(s) of a Home shall be responsible for the Resident's or any guest's compliance with the Declaration, Bylaws, and Rules. In addition to any other remedy for noncompliance with this Declaration, the Association shall have the right to initiate a forcible entry and unlawful detainer action, or similar such action, with the purpose of removing the offending non-owner occupant. The Association and the Board shall not have any liability for any action taken pursuant to this subparagraph, and the Owner shall indemnify and pay the defense costs of the Association and the Board arising from any claim related to any action taken in good faith by any of them pursuant to this subparagraph.

2. Lease-to-own arrangements, in which title to the property is held by someone other than a resident, will not be permitted beginning 16 August 2011, with the exception of lease-to-own arrangements that are currently in place as of 16 August 2011. These current arrangements will be permitted until they end under their own terms, title to the property is transferred (in which case the new owner must occupy the property), or the lessee/purchaser ceases residency of the property, whichever occurs first.

3. Any home owner who violates this section shall be subject to a fine of \$100.00 a day per violation notice of non-compliance, according to the provisions set forth in the Craig Estates HOA Rules and Regulations, and/or to a complaint for an injunction seeking to terminate the lease/rental or lease-to-own arrangement in violation of this section. If the Craig Estates Board of Directors is required to retain legal counsel to enforce this section, with or without the filing of legal process, the violating home owner shall be liable for all attorney fees and court costs incurred by the Board of Directors in enforcing this section.

2.03 Use and Occupancy. Subject to the limitation contained in this Declaration, each Owner shall have the non-exclusive right to use and enjoy the Common Areas and the exclusive right to use and enjoy said Owner's Lot.

2.04 Exterior of Residential Homes. Each Owner shall keep the exterior of his or her Residential Home, including, without limitation, exterior walls, roofs, gutters, drain spouts, all exterior building surfaces, and any and all other exterior improvements to the Lot in a sanitary condition and in a state of good repair. All such maintenance and repair shall be for the purpose of maintaining said Residential Home in a manner consistent with existing design, materials, colors, and other such items in use on other Residential Homes within the Project unless different materials shall have been previously approved in writing in accordance with the provisions of Section 2.07 hereof.

In the event that any such Residential Home should develop an unsanitary condition or fall into a state of disrepair, and in the event that the Owner of such Residential Home shall fail to correct such condition promptly following written notice from the Association, the Association shall have the right, at the expense of the Owner, and without liability to the Association for trespass or otherwise, to enter upon said Owner's Lot and correct or eliminate said condition.

2.05 Maintenance of Lots. The Association shall be responsible for aerating, edging, and fertilizing, mowing, trimming and weed and pest control for all Lot lawns.

The Homeowner shall be responsible to keep their Lot, including without limitation, all trees, shrubs, flower beds and grounds, including their sprinkler system, in a sanitary condition and in a state of good repair, free from all accumulation of weeds, refuse, rubbish or abandoned articles of any kind. Homeowner's sprinkler systems are to be repaired at the Owner's expense.

In the event that any Owner of such Residential Lot should allow their Lot to develop an unsanitary condition, have weeds in the flower beds, or fall into a state of disrepair, and in the event that the Owner of such Residential Home shall fail to correct such condition, a notice will be sent. If the first notice is not complied with, a second notice will be given, a fine of \$25.00

will be assessed and a new time limit will be given. If the second written notice and time limit from the Association is not complied with, the Association shall have the right, at the expense of the Owner, and without liability to the Association for trespass or otherwise, to enter upon said Owner's Lot and correct or eliminate said condition.

2.06 Common Area Maintenance. The Association shall be responsible to keep Common Areas, including Craig Park, in a state of good repair and maintenance, free from all damage and accumulations of snow on walks, refuse, rubbish, and other inappropriate materials of any kind. (See Rules and Regulations for Craig Park reservations and procedures.)

2.07 Architectural Control.

1. No building, fence, wall or other structure on any Lot shall be commenced, erected, or maintained, nor shall any exterior addition to or change (including painting) or alteration therein be made until Plans and Specifications showing the nature, kind, shape, height, colors, materials and location of the same shall have been submitted to and approved in writing as to harmony of external design and location to surrounding structures and topography by the Board and Architectural Committee composed of three (3) or more representatives appointed by the Board. No fence or fences of any nature whatsoever shall be constructed, placed upon, or maintained on any Lot or any portion thereof without the express prior written approval of the Board and Architectural Committee. **No permanent personal fencing is permitted for those homes that are bordered by Common Areas.**

2. No trailer, boat, truck larger than $\frac{3}{4}$ ton, recreational vehicle or similar vehicle shall be parked on a permanent basis on a lot at Craig Estates unless it is parked inside a garage. As used herein, permanent basis means more than seven (7) days out of any thirty-day period. Owners may not install parking pads on their lot that could be used to park vehicles prohibited by this section, nor shall Owners install additional pads on their lot except as approved by the Architectural Committee under Section 2.07.1 herein.

2.08 No Subdivision. No Owner shall cause a Lot or Residential Home to be divided in any manner so as to permit the permanent occupancy and ownership thereof by more than one family, and any documents purporting to convey any portion of a Lot or Residential Home shall be void and of no effect unless a transfer shall be approved in writing in accordance with the provisions of Section 2.07.

ARTICLE III

Title to Lots and Common Area

3.01 Title to Lots. Title to a Lot within the Project may be held or owned by any person or entity or any combination thereof and in any manner in which title to any other real property may be held or owned in the State of Utah, including, without limitation, joint tenancy or tenancy in common.

3.02 Title to Common Area. Title to the Common Areas within the Project shall be held in the name of the Association and is subject to the rights of any Owner to the non-exclusive use of the Common Area in any manner that does not hinder or encroach upon the rights of others and is not contrary to the provisions of this Declaration and to any Rules and Regulations promulgated by the Association for the use thereof.

3.03 Inseparability. Every devise, encumbrance, conveyance, or other disposition of a Lot shall be construed to be a devise, encumbrance, conveyance, or other disposition of the entire Lot, together with all appurtenant rights created by law or by this Declaration, including appurtenant membership in the Association as hereinafter set forth.

3.04 No Partition. The Association shall own the Common Areas, and no Owner may bring any action for partition thereof.

3.05 Separate Mortgages by Owners. Each Owner shall have the right separately to mortgage or otherwise encumber his or her Lot. No Owner shall attempt to, or shall have the right to mortgage or otherwise encumber the Common Areas or any part thereof. Any mortgage or any encumbrance of any Lot within the Project shall be subordinate to all of the provisions of this Declaration, and in the event of foreclosure, the provisions of this Declaration shall be binding upon any Owner whose title is derived through foreclosure through private power of sale, judicial foreclosure, or otherwise.

3.06 Separate Taxation. Each Lot in the Project shall be assessed separately for all taxes, assessments, and other charges of the State of Utah or of any political subdivision thereof or of any special improvement district or of any other taxing or assessing authority. For purposes of assessment, the valuation of the Common Areas shall be assessed separately from the Lots. No forfeiture or sale of any Lot or any Residential Home constructed thereon for delinquent taxes, assessments, or other governmental charges shall divest or in any way affect title to any other Lot.

3.07 Mechanic's Liens. No labor performed or material furnished for use in connection with any Lot or Residential Home constructed thereon with the consent, or at the request of, an Owner or his or her agent or subcontractor shall create any right to file a statement of mechanic's lien against a Lot of any other Owner not expressly consenting to or requesting the same or against any interest in the Common Areas unless such work shall have been performed upon express written consent of the Association and the labor performed or material furnished shall have been provided directly for the improvement, repair, or construction of the Common Areas.

3.08 Description of Lot. Each respective Lot shall be legally described for all purposes by using the applicable Lot number as established on the Plat.

ARTICLE IV **Easements**

4.01 Right to Ingress, Egress, and Enjoyment. Each Owner shall have the right to ingress and egress over, upon, and across the Common Areas and shall have the right of easement and enjoyment in and to the Common Areas which shall be appurtenant to and pass with the title to every Lot subject to the terms and conditions of said easements as herein set forth.

4.02 Delegation of Use. Any Owner may delegate, in accordance with the Rules and Regulations, his or her right of enjoyment to the Common Areas and any recreational facilities located thereon to the members of his or her family and his or her tenants and shall be deemed to have delegated said rights to contract purchasers who reside on said Owner's Lot.

4.03 Easement for Maintenance of Lots. The Association, its agents, employees, or subcontractors, shall have the right of easement over and across each Lot, but not to any portion of the interior of any Residential Home, for the purpose of maintaining or inspecting the Lot in accordance with the provisions of this Declaration.

ARTICLE V **Restrictions on Use**

5.01 Residential Uses. All Lots are intended to be used for single-family residential housing and are restricted to such use. No Residential Home shall be used for business or commercial activities without permission of the Board. As used herein, "single-family" shall mean: persons related to each other by blood within two generations or legally related to each other by marriage or adoption, or a group of not more than three (3) persons not all so related, inclusive of their domestic servants, who maintain a common household in a residence on a Lot. Notwithstanding the definition of single-family, because Craig Estates is zoned as a high-density housing area, no more than two people shall reside in any bedroom in any home and no more than a total of eight people shall be permitted to reside in any home built on a Lot within Craig Estates. No Owner shall permit more than three vehicles to be parked on a Lot (including inside the garage) on a permanent basis. As used herein, permanent basis means no more than ten days out of any thirty-day period. The Board of Directors must approve any deviation.

5.02 No Noxious or Offensive Activity. No noxious, offensive, or illegal activity shall be carried on in or upon any part of the Project, nor shall anything be done or placed in or upon any part of the Project which is or may become a nuisance or may cause embarrassment, disturbance, or annoyance to residents, including but not limited to loud or disturbing behavior by pets and children. No activities shall be conducted, nor improvements constructed, in or upon any part of the Project, which are or may become unsafe or hazardous to any person or property. No automobile or other vehicles shall be parked on a street within the Project or at any other location within the Project, which impairs or tends to impair vehicular or pedestrian access within the Project or to and from its various parts.

5.03 Restrictions on Animals. The HOA and the City of Syracuse adopt and adhere to the Davis County's "Comprehensive Animal Control Ordinance. Section 6.12.060 "No person or persons at any one (1) residence within the jurisdiction of this title shall at any one (1) time own, harbor, license or maintain more than two (2) dogs." There can be no more than a total of two pets per HOA residence. The animal cannot become a nuisance either through damage, unsanitary conditions, unreasonable odors, and noise or safety concerns. Whenever a dog is allowed outside, it shall be on a leash or some other appropriate restraint. Dogs must be no taller than 15 inches at shoulder height when full grown as of 16 August 2011. Dogs larger than as stated above in residence prior to 16 August 2011 will be grandfathered in the restrictions.

5.04 Prohibition of Damage and Certain Activities. Except with the prior written consent of the Board of Directors, nothing shall be done or kept in any Residential Home or upon any Lot which would result in cancellation of any insurance on the Project or any part thereof, nor shall anything be done or kept in any Residential Home which would increase the rate of insurance on the Project or any part thereof over that which, but for such activity, would be paid. Nothing shall be done or kept in any Residential Home, upon any Lot, or upon the Common

Areas, or upon any part of the Project, which would be in violation of any statute, ordinance, regulation, rule, permit, or other validly imposed requirement of any governmental authority. No damage to, or waste of, the Common Areas or Common Facilities or any part thereof shall be committed by any Owner or guest or invitee of any Owner, and each such Owner shall indemnify and hold harmless the Association and the other Owners against all loss resulting from any such damage or waste caused by such Owner, his or her family guests, tenants, licensees, or invitees.

5.05 Rules and Regulations. Each Owner and any person or persons occupying a Lot or using any facility within the Project shall comply with each and every provision of the Rules and Regulations governing use of the Project. Rules and Regulations may from time to time be adopted, amended, or revised by the Association pursuant to Section 7.04 herein.

5.06 Construction Exemption. During the construction of any permitted structures or improvements, the provisions, covenants, conditions, and restrictions contained in this Declaration shall be deemed waived to the extent necessary or convenient to permit such construction; provided, however, that, during the course of such construction, nothing shall be done which will result in a violation of said provisions, covenants, conditions, or restrictions upon completion of the construction.

ARTICLE VI **The Association**

6.01 The Association. The administration of this Project shall be through the Craig Estates Homeowners Association, Inc., a Utah non-profit corporation, which has been organized and will be operated to perform the functions and provide the services contemplated in this Declaration. Said Association shall operate in accordance with the laws of the State of Utah, and with the Articles of Incorporation of the Association and the Rules and Regulations of the Association, which have been adopted in accordance therewith.

6.02 Membership. Each Owner shall be entitled and required to be a Member of the Association. Membership shall begin immediately and automatically upon becoming an Owner and shall terminate immediately and automatically upon ceasing to be an Owner. If title to a Lot is held by more than one person, the membership appurtenant to that Lot shall be shared by all such persons in the same proportionate interests and by the same type of tenancy in which title to the Lot is held. An Owner shall be entitled to one membership for each Lot owned by said Owner. Each Membership shall be appurtenant to the Lot to which it relates and shall be transferred automatically by conveyance of that Lot. Ownership of a Lot within the Project cannot be separated from membership in the Association, and any devise, conveyance, or disposition of a Lot shall be construed to be a devise, conveyance, or other disposition, respectively, of that Owner's membership in the Association and all rights appurtenant thereto. No person or entity other than an Owner may be a member of the Association, and membership in the Association may not be transferred except in connection with the transfer of a Lot.

6.03 Board of Directors. A Board of Directors shall govern the Association as the same shall be established and defined in the Rules and Regulations of the Association. Interpretation, changes, disputes or questions to the CC&R or the Rules and Regulations will be resolved and managed by a majority vote of the Board of Directors.

6.04 Votes. Each Owner shall be entitled to one (1) vote for each Lot owned. If membership is jointly held; all or any holders of the joint membership may attend any and all meetings of the Members of the Association, but such holders of the joint membership must act unanimously to cast one (1) vote relating to their joint membership.

6.05 Power of Attorney and Amendments. Each Owner makes, constitutes, and appoints the Association the true and lawful attorney in said Owner's name, place, and stead to make, execute, sign, acknowledge, and file with respect to the Project such appointments to this Declaration and the Plat as may be required by law or by vote taken pursuant to the provisions of this Declaration.

ARTICLE VII

Certain Rights and Obligations of the Association

7.01 The Common Area. The Association, subject to the rights and duties of the Owners as set forth in this Declaration, shall be responsible for the exclusive management, control, operation, and maintenance of the Common Area, including all improvements thereon (including the Common Facilities), and shall keep the same in a good, clean, attractive, safe, sanitary order and repair. All goods and services procured by the Association in performing its responsibilities under the Section shall be paid for with funds from the Common Expense Fund.

7.02 Miscellaneous Goods and Services. The Association may obtain or pay for out of the Common Expense Fund the services of such personnel as the Association shall determine to be necessary or desirable for the proper operation of the Project, whether such personnel are furnished or employed directly by the Association or by any person or entity with whom or which it contracts. The Association may also obtain or pay for out of the Common Expense Fund legal and any accounting services necessary or desirable in connection with the operation of the Project or the enforcement of this Declaration. In addition to the foregoing, the Association may acquire and pay for out of the Common Expense Fund water, sewer, garbage collection, electrical, gas, and other necessary or desirable utility services for the Common Areas and insurance, bonds, and other goods and services common to the Lots and necessary to implement the intent of this Declaration.

7.03 Property Acquisition. The Association may acquire (by purchase, lease, or otherwise), hold and dispose of real, personal, and mixed property of all types for the use and benefit of all Owners. The costs of acquiring all such property, including Common Facilities, shall be paid for out of the Common Expense Fund and all proceeds from the disposition of such property shall be part of the Common Expense Fund.

7.04 Rules and Regulations. The Board of Directors may make reasonable Rules and Regulations governing the Project, which includes Common Areas, and Common Facilities, provided however, that such Rules and Regulations shall be consistent with the rights and obligations established by this Declaration. The Board shall send by first class U.S. mail, e-mail or hand deliver to each Owner, at the address set forth in the Register of Owners established in the Rules and Regulations, a copy of all such Rules and Regulations, all amendments thereto and any rescissions thereof. Such Rules and Regulations shall take effect the date approved by the governing board. The Board or any aggrieved Owner may initiate and prosecute appropriate

legal proceedings against an offending Owner to enforce compliance with such Rules and Regulations or to recover damages caused by non-compliance therewith as may be permitted by law. In the event the Board shall initiate any such legal proceedings, the Association shall be entitled to recover from the offending Owner costs and expenses incurred by the Association in connection with such proceedings, including court costs and reasonable attorney's fees both before and after judgment.

7.05 Creation of Easements. The Board may, without vote or consent of the Owners or of any person, grant or create, on such terms, as it deems advisable, reasonable utility and similar easements over, under, across, or through the Common Areas, which may be determined by the Association to be reasonably necessary.

7.06 Implied Rights. The Association may exercise any right or privilege given to it expressly by this Declaration or by law and every other right or privilege reasonably implied from the existence of any right, privilege, or duty given to it herein or reasonably necessary to effectuate any such right, privilege, or duty.

7.07 Powers of the Association. Notwithstanding the powers of the Association as set forth in this Article VII, neither the Association nor the Board of Directors as delegate of the Association's powers and duties shall enter into a contract with a third person or entity whereby such person or entity shall furnish goods or services for the Project for a term longer than one to three years at the discretion of the Board of Directors.

7.08 Financial Statements. The Board of Directors shall cause financial statements for the Association to be prepared at least annually, or at more frequent intervals if required by a majority vote of the Owners, and cause copies thereof to be made available to all Owners. Such statements shall be prepared in accordance with normally accepted accounting procedures and presented in such a manner as to fairly and accurately reflect the financial condition of the Association. The financial books of the Association shall be available for inspection by any Owner at any time during the normal business hour/day (by appointment) of the Association Treasurer. Nothing herein shall be construed to require an audit of the Association's financial records by a certified public accountant.

ARTICLE VIII

Assessments

8.01 Assessments. The Association shall have the right to charge to, and collect from, each Owner of a Lot within the Project said Owner's equal share of all sums which are expended on behalf of all Owners and all sums which are required by the Association to perform or exercise the functions, duties, rights, and powers of the Association under this Declaration, the Articles of Incorporation of the Association, or the Rules and Regulations adopted in accordance with the provisions thereof. All such sums, which are charged and collected for such purposes, shall be collectively referred to herein as "Assessments." The term "Assessments" shall also include each and every annual Regular Assessment and each and every Special Assessment levied in accordance with the provision hereof.

8.02 Agreement to Pay Assessments. Each Owner shall be deemed to covenant and agree with the Association to pay to the Association all Assessments made for the purposes provided for in this Declaration. Such Assessments shall be fixed, established and collected from time to time as provided in this Article.

8.03 Commencement of Assessments. Regular Assessments shall commence against all Lots on the first day of the first calendar month following recordation of a conveyance instrument transferring the Lot within the Project to an Owner.

8.04 Regular Assessments. A Regular Assessment shall consist of each Owner's equal share of the estimated annual total of: (1) the amount which is reasonably anticipated to be expended on behalf of all Owners, and (2) the sum of all amounts which are required to perform or exercise the rights, powers, and duties of the Association during each fiscal year. A Regular Assessment shall be computed and levied annually against each Lot in accordance with the provisions hereof as follows:

1. Common Expense. Each Regular Assessment shall be based upon an advance estimate of the Association's cash requirements to provide for payment of all estimated expenses arising out of, or connected with, maintenance and operation of the Common Areas as set forth in Section 7.01 hereof, the maintenance of the Lots as set forth in Section 2.05 hereof, and for the provision of utility services (to the extent not separately metered or billed), and all other common items to the Project for the fiscal year for which the Regular Assessment is being made. Such estimated expenses may include, among other things, and without limitation, the following: expenses of management; governmental taxes, special assessments, and real property taxes attributable to the Common Areas; premiums for all insurance that the Association is required or permitted to maintain hereunder; repairs and maintenance of the Common Areas and the Lots; cost of capital improvements to Common Areas; utility charges for utility services provided to the Common Areas; legal and accounting fees; any deficit remaining from a previous period; creation of a reasonable contingency reserve (\$10,000.00 or more); and any other expenses and liabilities which may be incurred by the Association. Such shall constitute the estimated Common Expense, and all funds received from assessments under this Section 8.04 shall be part of the Common Expense Fund;

2. Apportionment. Expenses attributable to the Common Expense or to the Project as a whole shall be apportioned among, and assessed to, each Lot on an equal basis.

3. Notice and Payment of Regular Assessment. Each Regular Assessment shall be made on a January 1 through December 31 fiscal-year basis. On or before January 1 each year, the Association shall give written notice to each Owner as to the amount of the Regular Assessment with respect to his or her Lot for the fiscal year commencing on January 1 immediately following such date. If no notice of assessment change is issued, the existing assessment will remain in force. Failure of the Association to give timely notice of any Regular Assessment as provided herein shall not be deemed a waiver or modification in any respect of the provisions of this Declaration, nor shall such failure affect the liability of the Owner of any Lot for payment of such Regular Assessment. Each Regular Assessment shall be payable in one of two options as follows:

(a) The full yearly Regular Assessment may be paid in full prior to the 25th day of January of each respective fiscal year and shall receive a 5% discount due to the benefit the Association is receiving by having the money in its bank account and the saving it receives by not having to handle twelve separate payments and deposits; or

(b) The Regular Assessment may be paid in twelve equal monthly installments due on the first day of each month commencing January 1, and shall be subject to a late charge of ten percent (10%) of the monthly fee for payments received after the 14th day of the month.

4. Inadequate Funds. In the event that the Common Expense Fund proves inadequate during any fiscal year for whatever reason, including non-payment of Owner's Assessments, the Association may either borrow funds and/or levy additional Assessments in accordance with the procedure set forth in Section 8.05, except that the vote herein specified shall not be necessary. If the Association elects to levy such an additional assessment, then no such assessment or assessments levied in any fiscal year may, in the aggregate, exceed five percent (5%) of the Common Expense Fund for that fiscal year without the vote or written consent of a majority of owners.

5. Increase in Regular Assessments. The amount of Regular Assessment shall not exceed twenty percent (20%) of the Regular Assessment amount for the immediately preceding fiscal year unless a majority of Owners shall consent to a greater increase by vote or written consent.

8.05 Special Assessments. In addition to the Regular Assessment authorized by this Article, the Association may levy, at any time, and from time to time, upon the affirmative vote of at least fifty percent (50%) of the total votes of the Association, Special Assessments, payable over such periods as the Association may determine, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement or any part thereof, or for any other expenses incurred or to be incurred as provided in this Declaration. This Section shall not be construed as an independent source of authority for the Association to incur expenses, but shall be construed to prescribe the manner of assessing for expenses authorized by other Sections or Articles hereof. Any amounts assessed pursuant hereto shall be assessed to Owners, in the same manner as other assessments. Notice in writing of the amount of such Special Assessments and the time for payment thereof shall be given promptly to the Owners, provided that no payment shall be due less than thirty (30) days after such notice shall have been given. All unpaid portions of such Special Assessments shall bear interest at the rate of one and one-half (1.5%) per month from the date such portion become due in accordance with the above-mentioned notice until paid. All funds received from assessments under this Section 8.05 shall be part of the Common Expense Fund.

8.06 Lien for Assessments. All sums assessed to the Owner of any Lot within the Project pursuant to the provisions of this Article VIII, together with interest and penalties thereon as provided herein, shall be secured by a Lien on such Lot in favor of the Association as more particularly set forth in Section 9.03.2.

8.07 Personal Obligation of Owner. The amount of each and every Regular Assessment and Special Assessment against any Lot with the Project shall be the personal obligation of the Owner of such Lots to the Association. Suit to recover a money judgment for such personal obligation shall be maintainable by the Association without foreclosing or waiving the lien securing the same. No Owner may avoid or diminish any such personal obligation by waiver of the use and enjoyment of any Common Areas or by abandonment of his or her Lot, or by waiving any services or amenities provided for in this Declaration. In the event of any suit to recover a money judgment for unpaid Assessments hereunder, the involved Owner shall pay the costs and expenses incurred by the Association in connection therewith, including court costs and reasonable attorney's fees both before and after judgment.

8.08 Fines. Any Homeowner may be fined for violations as stated in the Rules and Regulations as determined by a majority vote of the Board of Directors. The fine schedule is listed in the Rules and Regulations and can be adjusted or levied by a majority vote of the Board of Directors.

ARTICLE IX **Enforcement of Restrictions**

9.01 General. Each Owner shall comply with the provisions of this Declaration, the Rules and Regulations, and the decisions and resolutions of the Association and the Board of Directors adopted pursuant thereto as the same may be lawfully amended, modified, or adopted from time to time. The Board of Directors shall have full power to enforce compliance with this Declaration, and Rules and Regulations in any manner provided for by law or in equity, including, without limitation, the right to bring an action for damages, an action to recover sums due, an action to enjoin a violation or specifically enforce the provisions thereof, and the ability to assess fines consistent with the Community Association Act, which shall be set forth in the Rules and Regulations of the Association as adopted by the Board. Said action or actions may be maintainable by the Association, or in a proper case, by an aggrieved Owner. In the event of any action by the Association to recover Assessments or other amounts due hereunder, or to enforce the provisions hereof, the Association shall be entitled to recover from the offending Owner all costs and expenses incurred by the Association in connection with such action, including court costs and reasonable attorney's fees. The obligations, provisions, covenants, restrictions, and conditions contained in this Declaration, as the same may be lawfully amended or supplemented, with respect to the Association and/or the Lots within the Project, shall be enforceable by the Association, or by an Owner through a proceeding for prohibitive or mandatory injunction. The rights and remedies herein provided shall be in addition to any and all other rights now or hereafter provided by law for enforcement of the provisions of this Declaration, the Articles of Incorporation, The Rules and Regulations, and decisions and resolutions of the Association adopted pursuant thereto.

9.02 Interest. Unless otherwise specifically set forth in this Declaration, all sums payable hereunder by an Owner shall bear late fees at the rate of 10 percent (10%) of the HOA fee per month from the due date.

9.03 Certain Specific Enforcement Powers. In amplification of, and not in limitation of, the general powers specified in Section 9.01 above, the Association shall have the following:

1. **Suspension of Privileges.** If any Owner shall be in breach of this Declaration, or Rules and Regulations, including, but not limited to, the failure of such Owner to pay any Assessments on or before the due date thereof, subject to the limitations hereinafter set forth in this paragraph, the Association may suspend the Owner's right to occupy the Common Areas and to use Common Facilities and the right of such Owner to participate in any vote or other determination provided herein. The decision as to whether such privileges should be suspended shall be made by a majority of the members of the Board present at a special meeting of the Board duly called and held for such purpose. No suspension under this paragraph shall be effective until written notice has been given to the Owner of the suspension, the reasons therefore, and the actions that must be taken by said Owner to have all suspended privileges reinstated. If such suspension of privileges is based on the failure of an Owner to pay Assessments when due, the suspended privileges of an

Owner shall be reinstated automatically at such time as the Owner shall have paid to the Association, in cash or by cashier's or certified check, all amounts past due as of the date of such reinstatement. If such suspension of privileges is based on any act or omission other than the failure to pay Assessments or any other amounts due hereunder when due, no such suspension shall be made except after a meeting of the Board of Directors of the Association at which a quorum of the Board is present, duly called and held for such purpose. Written notice of such meeting shall be given to the Owner whose privileges are being sought to be suspended for any act or omission other than the failure to pay Assessments at least ten (10) days prior to the holding of such meeting. Such Owner shall be entitled to appear at such meeting and present his or her case or provide a written response to the Board no later than the time scheduled for such meeting as to why privileges should not be suspended (if any portion of this paragraph is not in compliance with the Community Association Act, the Board shall enact Rules and Regulations in compliance therewith to enforce this paragraph).

2. Enforcement by Lien. If any Owner shall fail or shall refuse to make any payment of any Assessments when due, the amount thereof shall constitute an encumbrance on the entire interest of the said Owner's Lot against which the Assessment has been levied. All of the rights and powers associated with such encumbrance on an Owner's Lot shall be collectively referred to herein as a "Lien." To evidence a Lien for sums assessed to Article VIII, the Association shall prepare a written Notice of Lien setting forth the amount of the Assessment or Assessments, the due date thereof, the amount or amounts remaining unpaid, the name of the Owner, a legal description of the Owner's Lot, and a statement that the amount of the Lien shall also include all costs and expenses, including attorney's fees, incurred in preparation, perfection, and enforcement of the Lien. Such Notice of Lien shall be signed and acknowledged by a duly authorized agent of the Association and shall be recorded in the office of the County Recorder of Davis County, State of Utah. No Notice of Lien shall be recorded until there is a delinquency in the payment of an Assessment. Such Lien may be enforced by sale or foreclosure of the Owner's interest in said Owner's Lot by the Association or its duly-authorized agent. Such sale or foreclosure shall be conducted in accordance with the provisions of Utah law applicable to the exercise of the powers of sale or foreclosure in deeds of trust or mortgages or in any other manner permitted by the laws of the State of Utah. The Lien may be satisfied and released upon payment to the Association, in cash or certified funds, the amount set forth in the Lien, all of the Association's expenses and attorney's fees incurred in the preparation, perfection, and enforcement of the Lien, and any Assessments against the lot which may have become due since the date of said Lien. The Association shall have the right and power to bid in at any foreclosure sale, and to hold to, lease, mortgage, or convey the subject Lot.

9.04 Priority of Lien. Upon recordation of the Notice of Lien, the Lien provided for herein shall be a charge or encumbrance upon the Owner's interest in the Lot prior to all other liens and encumbrances, recorded or unrecorded, except only tax and special assessment liens on the Lot in favor of any municipal assessing or taxing district and any encumbrances on the interest of the Owner recorded prior to the date when such Notice of Lien is recorded which, by law, would be a lien prior to subsequently-recorded encumbrances.

ARTICLE X
Insurance

10.01 Types of Insurance. The Association shall obtain and keep in full force and effect at all times the following types of insurance coverage, provided by companies licensed to do business in the State of Utah:

1. Public Liability and Property Damage Insurance. The Association shall obtain a broad form of comprehensive liability insurance coverage to provide adequate protection against liability for personal injury, death, and property damage in amounts not less than Five Hundred Thousand Dollars (\$500,000.00) per person and One Million Dollars (\$1,000,000.00) per occurrence with regard to injury or death and not less than One Hundred Thousand Dollars (\$100,000.00) per occurrence with respect to property damage. Coverage shall include, without limitation, liability for operation of vehicles and equipment on behalf of the Association and all activities in connection with the ownership, operation, maintenance, and other use of the Project and the facilities located therein;

2. Fidelity Insurance or Bond. The Association may purchase, in such amounts and in such forms as it deems appropriate, fidelity insurance or a bond to cover against dishonesty of employees, destruction or disappearance of money or securities, and forgery.

10.02 Form of Insurance. Insurance coverage relating to the Project, insofar as possible, shall be in the following form:

1. Casualty Insurance. Casualty insurance shall be carried in a form or forms naming the Association as the insured. Each policy shall also provide that it cannot be cancelled by either the insured or the insurance company until after ten (10) days' prior written notice.

2. Public Liability and Property Damage Insurance. Public liability and property damage insurance shall name the Association as the insured and shall protect the Association, and the Board of Directors against liability for acts or omissions of the Association, and the Board of Directors in connection with the ownership, operation, maintenance, or other use of the Project or any part thereof. Each such policy shall provide that it cannot be cancelled either by the insured or the insurance company until ten (10) days' prior written notice to the Board of Directors.

3. Policies. The Association shall make every effort to secure insurance policies that will provide that:

(a) The insurer shall waive subrogation as to any claims against the Association, the Board of Directors, agents and guests;

(b) The policy or policies on the Project cannot be cancelled, invalidated, or suspended on account of the conduct of any one or more individual Owners, without a prior demand in writing that the Association cure the defect; and

(c) The policy or policies on the Project cannot be cancelled, invalidated, or suspended on account of the conduct of any officer, or employee of the Association without a prior demand in writing that the Association cure the defect; and

(d) Any "no other insurance" clauses in the policy or policies on the Project shall exclude individual Owners' policies from consideration.

10.03 Insurance Proceeds. The Association shall receive the proceeds of any casualty insurance payments made under policies obtained and maintained by the Association pursuant to this Article. To the extent that reconstruction or repair is required herein, all proceeds of such insurance shall be made available as a fund for such reconstruction or repair and shall be disbursed by the Association as provided in Article XI.

10.04 Additional Coverage. The provisions of this Declaration shall not be construed to limit the power or authority of the Association to obtain and maintain insurance coverage in addition to any insurance coverage required by this Declaration in such amounts and in such forms as the Association may deem appropriate from time to time.

10.05 Adjustment and Contribution. Exclusive authority to adjust losses under policies hereafter in force on the Project shall be vested in the Association. In no event shall the insurance coverage obtained and maintained by the Association hereunder be brought into contribution with insurance purchased by individual Owners or their Mortgagees.

10.06 Owner's Own Insurance. Notwithstanding any other provisions of this Article, each Owner shall be responsible to obtain insurance at his or her own expense providing coverage upon his or her Lot, Residential Home, and any and all other improvements located thereon his or her personal property, for his or her personal liability, and covering such other risks as he or she may deem appropriate; provided that each such policy shall provide that it does not diminish the insurance carrier's coverage for liability arising under insurance policies obtained by the Association pursuant to this Article.

10.07 Review of Insurance. The Association shall review annually the coverage and policy limits of all insurance on the Common Areas and Common Facilities and adjust the same at its discretion within the limitations set forth within this Article. Such review may include an appraisal of the improvements in the Project by a representative of the insurance carrier or carriers providing the policy or policies on the Project, or by such other qualified appraisers as the Association may elect.

ARTICLE XI

Damage or Destruction

11.01 Damage or Destruction of Lot or Residential Home. In the event that a Lot or any improvement located thereon, including a Residential Home, is damaged or destroyed by fire or other casualty, the Owner thereof shall cause such Lot or Residential Home to be promptly repaired, restored, or reconstructed to the extent required to restore the Lot or Residential Home to substantially the same condition in which it existed prior to the occurrence of the damage or destruction. In addition, if any Common Area is damaged or destroyed in connection with the repair, restoration, or reconstruction of a damaged Lot, then the cost of repair, restoration, or reconstruction of the Common Area so damaged shall be paid by the Owner of the said Lot.

11.02 Damage or Destruction of Common Areas. In the event that the Common Areas or any portion thereof, any improvements constructed on the Common Areas, or any Common Facilities are damaged or destroyed by fire or other casualty, the Association shall be responsible to promptly repair, restore, replace, or reconstruct same to the extent required to return them to substantially the same condition in which they existed prior to the occurrence of the damage or destruction. The Association shall have full and complete authorization, right, and power to make, execute, and deliver any contract or other instrument and may take all action which may be necessary or appropriate to exercise the powers herein granted and no consent or other action by any Owner shall be necessary in connection therewith.

11.03 Repair or Reconstruction. Repair, restoration, replacement, or reconstruction of damaged portions of the Project as used in this Article means restoring, by whatever means, method, or process that shall be necessary, the damage portions of the Project to substantially the same condition in which it existed prior to the damage, with each Lot and the Common Areas having substantially the same boundaries as before. The term "repair" as used herein shall be deemed to include, without limitation, each and every process or procedure necessary to comply with the intent of the Article.

11.04 Estimate of Costs. As soon as practicable after an event causing damage to or destruction of any part of the Common Areas and Common Facilities, the Association shall obtain complete and reliable estimates of the costs of repair of that part of the Common Areas or Common Facilities damaged or destroyed. As soon as practicable after receiving said estimates, the Association shall diligently pursue to completion the repair of that part of the Common Areas and Common Facilities damaged or destroyed.

11.05 Funds for Reconstruction. The proceeds of any casualty insurance collected by the Association due to damage to the Common Areas or Common Facilities shall be available to the Association for the purpose of repair of the Common Areas or Common Facilities. If the proceeds of the insurance are insufficient to pay the estimated or actual cost of such repair, the Association may levy, in advance, a Special Assessment sufficient to provide funds to pay such estimated or actual costs of repair. Such Special Assessments shall be allocated and collected as provided in Section 8.05, except that the vote therein specified shall not be necessary. Further levies may be made in like manner if the proceeds of insurance and the Special Assessment collected prove insufficient to pay the costs of repair.

11.06 Disbursement of Funds for Repair. The insurance proceeds received by the Association and any amounts received from Special Assessments made pursuant to Section 11.05 shall constitute a fund for the payment of costs of repair after casualty. It shall be deemed that the first money disbursed in payment for cost of repair shall be made from insurance proceeds, if there is a balance after payment of all costs of such repair, such balance shall be deposited to the Common Expense Fund.

ARTICLE XII

Condemnation

12.01 Condemnation of Lot. If at any time or times during the continuance of ownership pursuant to this Declaration, all or part of one or more Lots shall be taken or condemned by any public authority under power of eminent domain, the provisions of this Article shall apply. A voluntary sale or conveyance of all or any part of a Lot, but under threat of condemnation, shall be deemed to be taken by power of eminent domain.

12.02 Proceeds. All compensation, damages, and other proceeds from any taking of a Lot by power of eminent domain (hereinafter "the Condemnation Award") shall be made payable to the Owner of each respective Lot so condemned.

12.03 Termination of Membership. If all of a Lot is taken by condemnation, or if such a portion of a Lot is taken by condemnation such that the remaining portion of the Lot may not practically or lawfully be used for any purpose permitted in the Declaration, then the membership, vote, easement rights, liability for payment of the Assessments, and all other rights and duties granted by this Declaration which are appurtenant to such Lot shall be and are automatically terminated upon such taking.

12.04 Remaining Portion of Lot. If any portion of a Lot shall remain after a complete taking as set forth in Section 12.03, then the remaining portion thereof shall be subject to purchase by the Association, at the sole election of the Association, at the fair market value thereof after such condemnation is complete and less any portion of the Condemnation Award paid to the Owner of such Lot which is properly allocated to such remaining portion of the Lot. Any portions of a Lot so purchased by the Association shall be Common Area.

ARTICLE XIII Condemnation of Common Areas

13.01 Condemnation of Common Areas. If, at any time or times during the continuance of ownership pursuant to this Declaration, all of any part of the Common Areas or Common Facilities shall be taken or condemned by any public authority under power of eminent domain, the provisions of this Article shall apply. A voluntary sale or conveyance of all or any part of the Common Areas or Common Facilities in lieu of condemnation, but under threat of condemnation, shall be deemed to be a taking by power of eminent domain.

13.02 Proceeds. All compensation, damages, and other proceeds from any such taking of Common Areas or Common Facilities by power of eminent domain (hereafter "the Condemnation Award") shall be made payable to the Association and shall be distributed by the Association as provided herein.

13.03 Complete Taking. In the event the entire Project is taken by power of eminent domain, ownership pursuant hereto shall terminate, and the Condemnation Award shall be allocated among, and distributed to, the Owners in proportion to their respective undivided interests in the Common Areas and Common Facilities. For the purposes of this Article, the undivided interest owned in common which shall appertain to each Owner shall be that percentage obtained by dividing one hundred (100) by the number of Lots existing in the Project immediately prior to the condemnation as such number is set forth in the Plat.

13.04 Partial Taking. In the event less than the entire Project is taken by power of eminent domain, the following shall occur:

1. Allocation of Award. If appointment of all allocation is established by applicable negotiations, judicial decree, or statute, the Association shall employ such apportionment and allocation to the extent appropriate. Otherwise, as soon as possible, the Association shall, reasonably and in good faith, apportion the Condemnation Award between compensation, severance damages, or other proceed, and shall allocate such apportioned amounts and pay the same to the Owners as follows:

- (a) The total amount apportioned to taking of or injury to the Common Areas shall be allocated and distributed to all Owners (including Owners whose entire Lots have been taken) in proportion to their respective undivided interests in the Common Areas;
- (b) The total amount apportioned to severance damages shall be allocated among, and distributed to, the Owners of those Lots that have not been taken in the proportion that said Owners' undivided interests in the Common Area bears to the total of all such Owners' undivided interests in the Common Areas;
- (c) The respective amounts apportioned to the taking of or injury to the particular Lot shall be allocated and distributed to the Owner or Owners of such Lot;
- (d) The total amount portioned to consequential damages and any other takings or injuries shall be allocated distributed as the Association determines to be equitable under the circumstances;
- (e) Distribution of allocated proceeds shall be made by check payable jointly to the each Owner and his or her respective Mortgagees, as appropriate.

2. Continuation and Reorganization. If less than the entire Project is taken by power of eminent domain, ownership pursuant hereto shall not terminate, but shall continue.

3. Reconstruction or Repair. Any reconstruction or repair necessitated by condemnation shall be governed by the procedures specified in Article XI hereof for cases of damage or destruction.

ARTICLE XIV **Mortgage Protection**

14.01 Mortgage Protection. No breach of any of the covenants, conditions, restrictions, or limitations contained herein shall defeat or render invalid the lien of any Mortgage made in good faith and for value; provided, however, that all such covenants, conditions, restrictions, and limitations contained herein shall be binding upon an Owner whose title is derived through foreclosure, Trustee's sale, or by deed or assignment in lieu of foreclosure.

14.02 Priority of Liens. No enforcement of any lien provision herein contained shall defeat or render invalid the lien of any Mortgage. All sums assessed in accordance with the provisions herein shall constitute a lien on each respective Lot prior and superior to all other liens except (1) all taxes, bonds, assessments, and other levies which, by law, would be superior thereto; and (2) the lien or charge of any recorded Mortgage on such Lot in good faith and for value and recorded prior to the date on which any such assessment became due.

14.03 Prior Liens Relate Only to Individual Lots. All taxes, assessments and charges, which may become liens prior to the first Mortgage under local law shall relate only to the individual Lot and not to the Project as a whole.

14.04 Mortgage Holder Rights in Event of Foreclosure. Whenever the Mortgagee of a Mortgage of record obtains title to a Lot by the foreclosure of the Mortgage on the Lot or by deed or assignment in lieu of foreclosure, then such Mortgagee or any purchaser at a foreclosure sale shall take the Lot free of any claims for unpaid Assessments and charges against the Lot which accrued prior to the date of the acquisition of title to such Lot by such acquirer except for claims for equal share of such Assessments or charges resulting from a equal reallocation of such Assessments or charges to all lots in the Project, including the mortgaged Lot. Such unpaid share of Assessments shall be deemed to the Common Expenses collectible prospectively equal from all of the Lots in the Project, including the Lot which has been acquired in accordance with the provisions of this Section.

14.05 Notices to First Mortgage Holders. The Association shall give the applicable first Mortgagee, if any; prompt notice of any default in the Lot Mortgagor's obligation under the Declaration not cured within thirty (30) days of default.

14.06 Matters Requiring Mortgage Approval. Notwithstanding any other provision contained within this Declaration, a majority of the voting power (based upon one vote for each first Mortgage owned per Lot) of the first Mortgagees of any Lot as then appear on the official Records of Davis County, Utah, shall have given their prior written approval before the Association shall be entitled to:

- (a) By act or omission, seek to abandon or terminate the Project;
- (b) Change the equal interest or obligations of any individual Lot for the purpose of levying Assessments or charges or allocating distributions of hazard insurance proceeds of Condemnation Awards;
- (c) By act or omission, seek to abandon, encumber, sell, or transfer the Common Areas (the granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Areas and Common Facilities by the Project shall not be deemed a transfer within the meaning of this clause); or
- (d) Use hazard insurance proceeds for losses to the Project (whether to Common Areas or Common Facilities) for other than the repair, replacement, or reconstruction of such property.

14.07 Amendment. No provisions of this Article XIV shall be amended without the prior written consent of a majority of the voting power of all first Mortgagees as appear on the official records of Davis County, State of Utah, as of the date of the vote regarding such amendment.

ARTICLE XV **General Provisions**

15.01 Intent and Purpose. The provisions of this Declaration and any supplemental or subsequent Declaration or amendments thereto shall be liberally construed to effectuate the purpose of creating a uniform plan for the development and operation of this Cluster Subdivision. Failure to enforce any provision, restriction, covenant, or condition of this

declaration, or in any supplemental or subsequent Declaration or amendments hereto shall not operate as a waiver of any such provision, restriction, covenant, or condition or any other provisions, restrictions, covenants, or conditions.

15.02 Interpretation. Whenever used herein, unless the context shall otherwise provide, the singular shall include the plural, the plural shall include the singular, the whole shall include any part thereof, and any gender shall include all other genders. The Article and Section headings set forth herein are for the convenience and reference only and are not intended to describe, interpret, define, or otherwise limit or affect the content, meaning, or intent of this Declaration or any Article, Section or provision hereof. The provisions hereof shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any one provision or portion hereof shall not affect the validity or enforceability of any other provision hereof.

15.03 Registration of Mailing Address. Each Owner shall register from time to time with the Association his or her current mailing address. All notices or demands intended to be served upon any Owner may be sent by First Class U.S. Mail, postage prepaid, addressed to the Owner at his or her last registered mailing address, or, if no address has been registered, to the mailing address of the Lot of such Owner. All notices or demands intended to be served upon the Association may be sent by First Class U.S. Mail, postage prepaid, addressed to the Association at the address of its offices as may be furnished to the Owners in writing from time to time. Any notice or demand referred to in this Declaration shall be deemed given when deposited in the U.S. Mail, postage prepaid, and in the form provided for in this Section.

15.04 Review. Any Owner may, at any reasonable time, upon appointment and at his or her own expense, cause a review or inspection to be made of the books and records maintained by the Association.

15.05 Amendment. This Declaration may be amended with or without a meeting by the affirmative vote of at least fifty-one percent (51%) of the Owners. Any amendment so authorized shall be accomplished through the recordation of an instrument executed by the President of the Association certifying that the vote required by this Section has occurred.

15.06 Owner's Obligations. All obligations of an Owner under and by virtue of the provisions contained in this Declaration shall continue, notwithstanding that said Owner may be leasing, renting, or selling his or her Lot. The Owner of a Lot within the Project shall have no obligation for expenses or other obligations (except interest on prior obligations) accruing after the conveyance of such Lot to a subsequent Owner.

15.07 Effective Date. This Declaration and every provision hereof shall take effect upon recording.

CERTIFICATION

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BK 5443 PG 715

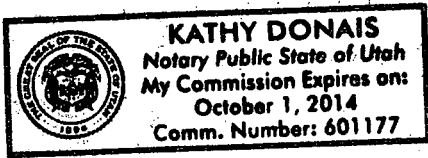
It is hereby certified that Owners holding at least fifty-one percent (51%) of the total votes of the Association have voted to approve this amended Declaration, as indicated by the consents attached to this Declaration as Exhibit "B" and incorporated herein.

IN WITNESS WHEREOF, this 24th day of January 2012,

By: Cathryn Trusty, Treasurer
Cathryn Trusty, Treasurer

STATE OF UTAH)
 : Ss.
COUNTY OF DAVIS)

On this 24th day of January 2012, personally appeared before me Cathryn Trusty, who, being by me duly sworn, did say that she is Treasurer of the Craig Estates Homeowners Association and that the within and foregoing instrument was signed in behalf of said Association and she duly acknowledged to me she executed the same.



Kathy Donais
Notary Public

EXHIBIT "A"

LEGAL DESCRIPTION OF LOTS IN CRAIG ESTATES

All the following lots in Phase 1: 12-351-0101 thru 0120; 12-351-0122 thru 0125, and all common access areas and Craig Park, inclusive of Craig Estates Cluster Subdivision, Syracuse City, Davis County, Utah, according to the official plat thereof).

All the following lots in Phase 2: 12-487-0201 thru 0222; and 12-598-0327 and 0328 (Craig Park) and all common access areas, inclusive of Craig Estates Cluster Subdivision, Syracuse City, Davis County, Utah, according to the official plat thereof).

EXHIBIT "B"
CONSENT OF OWNERS

We, the Owners of Lots in Craig Estates, hereby consent to the adoption and recording of this amended Declaration as set forth above.

- | | |
|---|---|
| Lot #101 (2021) <u>al Tj</u> | Lot #201 (2160) _____ |
| Lot #102 (2031) _____ | Lot #202 (2170) <u>Rest Barbara</u> |
| Lot #103 (2051) <u>Mortensen</u> | Lot #203 (2180) _____ |
| Lot #104 (2073) <u>[Signature]</u> | Lot #204 (2190) <u>Dean Brown</u> |
| Lot #105 (2081) <u>Jeanne Kay Velkinburgh</u> | Lot #205 (2202) <u>Elaine Bille</u> |
| Lot #106 (2089) _____ | Lot #206 (2212) <u>Elizabeth E. Pollock</u> |
| Lot #107 (2097) <u>Bridget Hanson</u> | Lot #207 (2226) <u>[Signature]</u> |
| Lot #108 (2084) <u>Joni Anderson</u> | Lot #208 (2238) _____ |
| Lot #109 (2074S) _____ | Lot #209 (2250) <u>[Signature]</u> |
| Lot #110 (2064) <u>[Signature]</u> | Lot #210 (2282) <u>D.J. Hammond</u> |
| Lot #111 (2149) <u>Joyce Paulsen-Smith</u> | Lot #211 (2292) <u>Nya Siddall</u> |
| Lot #112 (2150) _____ | Lot #212 (2291) <u>Paul [Signature]</u> |
| Lot #113 (2138) <u>Adelle Nelson</u> | Lot #213 (2281) <u>Jeffrey K Hunter</u> |
| Lot #114 (2094) <u>Theresa A. Clark</u> | Lot #214 (2249) <u>Walter [Signature]</u> |
| Lot #115 (2082) <u>Carmen Slavin</u> | Lot #215 (2237) <u>Nie Nutt</u> |
| Lot #116 (2074M) <u>Dorcas J. Maroney</u> | Lot #216 (2225) _____ |
| Lot #117 (2071) <u>Willard D. Vaugen</u> | Lot #217 (2213) _____ |
| Lot #118 (2075) <u>[Signature]</u> | Lot #218 (2203) <u>Lammung</u> |
| Lot #119 (2083) <u>[Signature]</u> | Lot #219 (2191) _____ |
| Lot #120 (2091) <u>Robert [Signature]</u> | Lot #220 (2181) <u>Guthryn Trusty</u> |
| _____ | Lot #221 (2171) <u>Thac Little</u> |
| _____ | Lot #222 (2161) _____ |