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RICHARD T. MAUGHAN
DAVIS COUNTY, UTAH RECORDER
04/18/2013 10:53 AM
FEE \$194.00 Pgs: 47
DEP RT REC'D FOR US TITLE COMPANY
OF UTAH

AFTER RECORDING RETURN TO:

Garrett Seely
39 East Eagleridge Drive, Suite 100
North Salt Lake, UT 84054

Parcel ID Nos. (APN's)
06-349-0001 through 06-349-0082,
inclusive, and
06-356-0081 through 06-356-0091,
inclusive also, 06-082-0258

RETURNED
APR 18 2013

**DECLARATION OF COVENANTS, CONDITIONS, AND
RESTRICTIONS AND RESERVATION OF EASEMENTS FOR
FOXBORO NORTH STONEHAVEN WEST**

THIS DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND RESERVATION OF EASEMENTS (the "Declaration") is made this 15th day of April, 2013 by FOXBORO ESTATES, LLC, a Utah limited liability company ("Declarant").

RECITALS

In addition to the terms of this Declaration, the Property is and shall be subject to the terms of that certain Master Declaration of Covenants, Conditions, Restrictions and Reservation of Easements for Foxboro North recorded as Entry number 2283375 on June 27, 2007 in Book 4313, Pages 127-203, in the office of the County Recorder of Davis County, Utah as amended or supplemented from time to time (the "Master Declaration"). This Declaration is and shall be subordinate to the Master Declaration. This Declaration is, and shall for all purposes be considered to be, a "Stonehaven Supplemental Declaration," as that term is defined in the Master Declaration.

A. Declarant owns or will own certain real property in the City of North Salt Lake, in Davis County, Utah, and a portion of said property, as more particularly described in Exhibit "A" attached hereto, shall constitute the property initially covered by this Declaration ("Original Property");

B. Declarant further reserves the right pursuant to the terms of this Declaration from time to time to add all or any portion of certain other real property, more particularly described in Exhibit "B" attached hereto (the "Annexable Property") to the Property.

C. The Units and Common Area subject to this Declaration shall be part of the "Stonehaven Neighborhood" as that term is defined in the Master Declaration. The Master Association hereby allocates, and the Association hereby accepts, the maintenance and other obligations associated with the Common Area within the Community.

**ACCOMMODATION
RECORDING ONLY
U.S. TITLE**

D. In order to efficiently manage and to preserve the value and appearance of the Community, it is necessary and desirable to create a nonprofit corporation to maintain Common Areas in the Community; to collect assessments and disburse funds as hereinafter set forth; and to perform such other acts as shall generally benefit the Community and the Owners. The Foxboro North Stonehaven West Homeowners Association (or such similarly named entity), a homeowners association and nonprofit corporation, has or will be organized for the purpose of exercising the aforementioned powers and functions.

DECLARATION

NOW, THEREFORE, Declarant hereby declares that all of the Original Property, and, from the date(s) of respective annexation, all Property annexed pursuant to Article 15 (collectively, "Properties") shall be held, sold, conveyed, encumbered, hypothecated, leased, used, occupied and improved subject to the following protective covenants, conditions, restrictions, reservations, easements, equitable servitudes, all of which are for the purpose of uniformly enhancing and protecting the value, attractiveness and desirability of the Properties (as defined in Article 1 hereof). The protective covenants, conditions, restrictions, reservations, easements, and equitable servitudes set forth herein shall run with and burden the Properties and shall be binding upon all Persons having or acquiring any right, title or interest in the Properties, or any part thereof, their heirs, successors and assigns; shall inure to the benefit of every portion of the Properties and any interest therein; and shall inure to the benefit of and be binding upon, and may be enforced by, Declarant, and each Owner and their respective heirs, executors and administrators, and successive owners and assigns. All Units within the Properties shall be used, improved, devoted, and limited exclusively to single Family residential use.

1. DEFINITIONS

1.1 "Annual Assessment" shall mean the charge levied and assessed each year against each Unit pursuant to Sections 5.4 and 5.5 hereof.

1.2 "Annexable Property" shall mean all real property known as the Stonehaven East property and described in Exhibit "B" of this Declaration, as amended.

1.3 "Area of Common Responsibility" shall mean all of the properties and facilities owned by Association, for which the Association has responsibility under the Governing Documents, or for which the Association otherwise agrees to assume responsibility (including any maintenance obligations) regardless of who owns them. The Area of Common Responsibility includes all of the Common Area and may also include Units or portions of Units and property dedicated to the public, such as public rights-of-way, trails, parks, and open spaces.

1.4 "Articles" shall mean the Articles of Incorporation of the Association as filed or to be filed in the office of the Utah Department of Commerce, Division of Corporations, as such Articles may be amended from time to time.

1.5 "Association" shall mean the Foxboro North Stonehaven West Homeowners Association, a Utah nonprofit corporation or limited liability company, or such similarly named entity, organized or to be organized to administer and enforce the covenants and to exercise the rights, powers and duties set forth in this Declaration.

1.6 "Association Act" shall mean the Utah Community Association Act, U.C.A. § 58-8a-101 et seq., as the same may be amended from time to time.

1.7 "Board" shall mean the Board of Trustees of the Association.

1.8 "Builders" shall mean those Persons who purchase one or more unimproved or improved lots or parcels of land within the Community for further subdivision or development and resale in the ordinary course of their business.

1.9 "Bylaws" shall mean and refer to the Bylaws of the Association, as amended from time to time.

1.10 "Common Area" shall mean all real property or interests therein (and any personal property) owned or leased by the Association, but shall exclude Units. The Common Area shall include all of that real property designated on the Plat as a "Common Area," "Limited Common Area", "Common Element", "Common Space", "Open Space" or such similar term, including, but not necessarily limited to, any public access easement, landscape easement, and any Improvements respectively thereon, and shall constitute Common Area as to the Properties. Without limiting the generality of the foregoing, Common Areas shall include any entry statements, any park, perimeter walls and fencing, fencing along the public walking trails, and certain designated drainage and sewer easement areas.

1.11 "Common Expenses" shall mean all expenses for maintenance, repairs, landscaping, utilities and taxes incurred on or in connection with Areas of Common Responsibility within the Community, including snow removal and regular garbage collection, all insurance premiums for all insurance that the Association is required or permitted to maintain, all expenses incurred in connection with enforcement of this Declaration, expenses of management; utility charges, including charges for utility services to the Units to the extent not separately metered or billed; all matters that the Plats require to be maintained by the Association, including street lights on private streets and rear-lot storm drain piping; all amounts which the Association agrees to pay by written agreement for services or amenities benefiting the Community; legal and accounting fees; any deficit remaining from a previous period; creation or an adequate contingency reserve, major maintenance reserve; creation of an adequate reserve fund for maintenance repairs, all expenses expressly declared to be Common Expenses by this Declaration or the Bylaws of the Association, and all other expenses which the Association is entitled to incur pursuant to the provisions of this Declaration or its Bylaws.

1.12 "Community" shall mean the collective reference to all real, personal and mixed property shown on the Plat and governed by this Declaration.

1.13 "City" shall mean the City of North Salt Lake.

1.14 "County" shall mean Davis County.

1.15 "Development and Sale Period" means the period of time during which the Declarant or any Declarant Affiliate owns real property in the Community or has an unexpired option to expand the Community.

1.16 "Declarant" shall mean Foxboro Estates, LLC, a Utah limited liability company, and any Person to which it shall have assigned any rights hereunder of a Declarant by an express written and Recorded assignment executed by Foxboro Estates, LLC, a Utah limited liability company.

1.17 "Declarant Affiliate" means any Person that is owned or controlled by the Declarant or is otherwise affiliated with Declarant through direct or indirect common ownership or control.

1.18 "Declarant Control Period" means the period of time described in Section 2.2 of this Declaration.

1.19 "Emergency Assessment" shall have the meaning set forth in Section 5.7.

1.20 "Family" means one individual, or two or more persons related by blood, marriage, or adoption, living together in a single dwelling unit and maintaining a common household. A family may include four, but not more than four, non-related persons living with the residing family. The term "family" shall not be construed to mean a group of non-related individuals, a fraternity, club or institutional group.

1.21 "Governing Documents" shall mean the Declaration, Master Declaration, Articles of Incorporation and bylaws for the Association, Plat, and rules and regulations.

1.22 "Improvement" shall mean any structure or appurtenance thereto of every type and kind, whether above, on, or below the land surface, placed in the Community, including but not limited to Residences and other buildings, walkways, sprinkler pipes, swimming pools, spas and other recreational facilities, carports, garages, roads, driveways, parking areas, walls, private roads, fences, screening walls, block walls, retaining walls, stairs, decks, landscaping, antennae, hedges, windbreaks, patio covers, railings, plantings, planted trees and shrubs, poles, signs, storage areas, exterior air conditioning and water-softener fixtures or equipment.

1.23 "Individual Assessment" shall have the meaning set forth in Section 5.8.

1.24 "Limited Common Area" shall mean certain portions of the Common Area that are designated as "Limited Common Area" on the Plats or otherwise so designated pursuant to this section, and assigned for the exclusive use or primary benefit of less than all Units. Limited Common Areas might include such things as entry features, recreational facilities, green space, green courts, parking spaces, driveways, streets, alleyways, sidewalks, landscaped medians and cul-de-sacs, among other things. The Declarant may designate property as Limited Common Area and assign it to particular Units on the recorded plat depicting such property, in the deed conveying such property to the Association, in this Declaration, in a writing signed by Declarant which shall be delivered to the Owner and kept as a permanent record of the Association, or in the Supplement by which the property is submitted to the terms of this Declaration. At any time during the Development and Sale Period, the Declarant may assign use of the same Limited Common Area to additional Units. That portion of the Limited Common Area that serves as a driveway for specific Units is hereby reserved for exclusive use by the Units which abut such Limited Common Area and in no event shall such Limited Common Area be: (1) used for parking or storing of vehicles for any period of time, (2) blocked or impeded for any period of

time, (3) used for any purpose other than vehicular and pedestrian access to and from the Units abutting said Limited Common Area.

1.25 "Lot" shall mean any numbered portion of a parcel of real property shown upon any recorded plat of the Property together with any Improvements constructed thereon, with the exception of the areas designated as lettered tracts and areas dedicated to the public. Each Lot shall be a separate freehold estate.

1.26 "Master Association" means the entity defined as the "Association" in the Master Declaration.

1.27 "Member" shall mean any person that is a member of the Association pursuant to the provisions of Section 3.1.

1.28 "Owner" means the Person or Persons, including Declarant, holding fee simple interest of record to any Unit. The term "Owner" includes a seller under an executory contract of sale but excludes Mortgagees.

1.29 "Person" shall mean a natural individual, a corporation, or any other entity with the legal right to hold title to real property.

1.30 "Plat" shall mean the final plat maps of Foxboro North Stonehaven West P.U.D. Recorded as Entry number 2681531 on August 22, 2012 in Book 5590, Pages 16, and Foxboro North Stonehaven West Plat 2 P.U.D., Recorded as Entry number 2719294 on February 8, 2013 in Book 5703, Pages 1170, in the office of the County Recorder of Davis County, Utah and any other plat maps(s) of additional parcels(s) subsequently Recorded, as said plat map from time to time may be amended, as said plat map from time to time maybe amended or supplemented of record by Declarant, together with any map which may, in the future, be Recorded with respect to the Annexable Property.

1.31 "Property" or "Properties" shall mean the real, personal, or mixed property described in Recital A above which is subject to this Declaration, and all property as may be brought within this Declaration pursuant to Article 15 ("Annexation") and Exhibit "B" of this Declaration.

1.32 "Record," "Recorded," "Recorder," "Filed" or "Recordation" shall mean, with respect to any document, the recordation of such document in the official records of the County Recorder of the County.

1.33 "Reserve Analysis" shall mean an analysis to determine: (a) the need for a reserve fund to accumulate money to cover the cost of repairing, replacing, and restoring common areas that have a useful life of three years or more, but excluding any cost that can reasonably be funded from the association's general budget or from other association funds; and (b) the appropriate amount of any reserve fund.

1.34 "Residence" means a building located on a Lot designed and intended for use and occupancy as a residence by a single Family.

1.35 "Rules" shall mean any rules or regulations adopted by the Association pursuant to this Declaration.

1.36 "Special Assessment" shall mean any assessment that is levied and assessed pursuant to Section 5.6 of this Declaration.

1.37 "Supplement" shall mean any document recorded by Declarant or a Declarant Affiliate that is meant to supplement the provisions of this Declaration.

1.38 "Unit" shall mean a subdivided lot within the Community depicted as a separately identified parcel on a recorded subdivision plat or survey, which may be independently owned and conveyed and is zoned or otherwise intended for development, use, and occupancy as an attached or detached residence for a single family and is sometimes referred to as a "Residential Unit." The term "Unit" refers to the land, if any, which is part of the Unit, as well as to any structures or other Improvements on the Unit. A parcel of land is considered a single Unit until a subdivision plat or survey is recorded subdividing it into more than one Unit. The term "Unit" does not include Common Areas or property dedicated to the public.

2. COMMUNITY ADMINISTRATION

2.1 Declarant. The Declarant has reserved various rights in the Governing Documents with respect to development and administration of the Community. The Declarant may exercise certain of these rights throughout the Development and Sale Period.

2.2 Declarant Control Period. The Declarant has reserved other rights that may be exercised during the Declarant Control Period. The Declarant Control Period begins on the date of the Association's incorporation and terminates upon the first of the following to occur:

2.2.1 When 75% of the total number of Units permitted by applicable zoning for the property described in the Declarant's or the Declarant Affiliate's master plan for the Community have certificates of occupancy issued thereon and have been conveyed to persons other than Builders holding title for purposes of construction and resale;

2.2.2 December 31, 2043; or

2.2.3 When, in its discretion, the Declarant so determines and declares in a recorded instrument.

2.3 Declarant Approval Rights. The Declarant has certain approval rights for a limited period as provided in the Bylaws after the termination of the Declarant Control Period.

2.4 Assignment of Declarant Rights. The Declarant may assign its status and rights as the Declarant under the Governing Documents to any Declarant Affiliate or any person who takes title to any portion of the property described in **Exhibit "A"** or **Exhibit "B"** for the purpose of development and/or sale. Such assignment shall be made only in a recorded instrument signed by both parties, and shall not prevent Declarant from assigning its status and rights for any other property subject to this Declaration.

2.5 The Association. The Declarant has established or will establish the Association as the primary entity responsible for administering the Community in accordance with the Governing Documents. The Association may exercise all rights and powers that the Governing Documents and Utah law expressly grant to it, as well as any rights and powers that may reasonably be implied under the Governing Documents. It may also take any action reasonably necessary to effectuate any such right or privilege.

2.6 The Board. On most matters, the Association acts through the Board. However, in some instances the Governing Documents or applicable law limit the Board's ability to act without the approval of the Association's members. Unless the Governing Documents or Utah law specifically provide otherwise, the Board may exercise the Association's rights and powers without a vote of the membership.

2.6.1 Subject to Section 6.3 below, the Board may institute, defend, settle, or intervene on behalf of the Association in mediation, binding or non-binding arbitration, litigation, or administrative proceedings in matters pertaining to the Area of Common Responsibility, enforcement of the Governing Documents, or any other civil claim or action. However, the Board has no legal duty to institute litigation or any other proceeding on behalf of or in the name of the Association or its members.

2.6.2 In exercising the Association's rights and powers, making decisions on the Association's behalf (including, without limitation, deciding whether to file a lawsuit or take other legal action under any circumstances) and conducting the Association's affairs, Board members and the Association's officers are required to comply with, and shall be judged by, the standards set forth in the Bylaws.

2.7 Builders. Much of the responsibility and credit for helping to create the Community rests with the Builders. The Builders have the same privileges and responsibilities as Owners during the time that they own Units for construction and resale, including the privileges of membership in the Association. In addition, the Declarant may extend any of the rights it has reserved under the Governing Documents with respect to development, marketing, and sale of property in the Community to such Builders as it may designate.

2.8 Priority of Governing Documents. If there exists any conflict or inconsistency between this Declaration and either Articles of Incorporation or Bylaws of the Association, then the terms and provisions of this Declaration shall prevail. If there exists any conflict or inconsistency between this Declaration and the Master Declaration, then the terms of the Master Declaration shall control to the extent of such conflict or inconsistency. However, a provision in this Declaration that is more restrictive than a provision in the Master Declaration shall not be deemed to be in conflict or inconsistent with the Master Declaration.

3. MEMBERSHIPS AND VOTING

3.1 Membership. Every Owner shall be a Member of the Association. No evidence of membership in the Association shall be necessary other than evidence of ownership of a Lot. Membership in the Association shall be mandatory and shall be appurtenant to the Lot in which

the Owner has the necessary interest. The rights and obligations of a Member shall not be assigned, transferred, pledged, conveyed or alienated in any way except upon transfer of ownership of an Owner's Lot, and any such transfer shall automatically transfer the membership appurtenant to such Lot to the new Owner thereof.

3.2 Classes of Membership. The Association initially has two classes of membership: the Owner membership, which is comprised of all Owners, including Builders, and the Declarant membership, which consists solely of the Declarant:

3.2.1 Owner Membership. Every Owner is automatically a member of the Association. However, there shall be only one membership per Unit. Thus, if a Unit has more than one Owner, all co-Owners of the Unit shall share the privileges of such membership, subject to reasonable Board regulation and the restrictions on voting set forth below and in the Bylaws. The rights and obligations of a member of the Association shall not be assigned, transferred, pledged, conveyed or alienated in any way except upon transfer of ownership of an Owner's Unit, and any such transfer shall automatically transfer the membership appurtenant to such Unit to the new Owner thereof. If an Owner is a corporation, a partnership, or other legal entity, its membership rights may be exercised by any officer, director, partner, or trustee, or by an individual the Owner designates from time to time in writing to the Association's Secretary, except that only the individuals residing in the Unit shall be entitled to use any Common Areas available for use by Owners.

3.2.2 Declarant Membership. The Declarant holds the sole "Declarant Membership". The Declarant Membership shall terminate two years after expiration of the Declarant Control Period, or on such earlier date as the Declarant determines and declares in a recorded document.

3.2.3 Additional Classes of Membership. The Declarant may, by Supplement, create additional classes of membership comprised of the owners of Units within any portion of the additional property submitted to this Declaration. The Declarant shall specify in any such Supplement the rights, privileges, and obligations of the members of any class of membership created by that Supplement.

3.3 Voting. Each Unit is assigned one equal vote, subject to the limitations on voting set forth in this Declaration and the other Governing Documents. No vote shall be exercised for any property exempt from assessment under Section 5.2. Further, during such time as there is a Declarant Membership, no vote shall be exercised for Units that the Declarant or a Declarant Affiliate owns; rather, the Declarant's consent shall be required for various actions of the Board, the membership, and committees, as specifically provided elsewhere in the Governing Documents.

3.4 Multiple Ownership Interests. In any situation in which an Owner is entitled personally to exercise the vote for his or her Unit, if there is more than one Owner of a Unit, the vote for such Unit may be exercised as the co-Owners holding a majority of the ownership interest in the Unit determine among themselves. Any co-Owner may cast the vote for the Unit and majority agreement shall be conclusively presumed unless another co-Owner of the Unit

protests promptly to the President or other person presiding over the meeting or the balloting, in the case of a vote taken outside of a meeting. In the absence of a majority agreement, or if two or more co-Owners seek to exercise it independently, the Unit's vote shall not be counted for any purpose whatsoever other than to determine whether a quorum exists.

3.5 Quorum. A quorum for any such meeting shall be the presence in person or by proxy of no fewer than twenty-five percent (25%) of all Owners entitled to cast a vote. Absent a quorum, the Owners who are present at the noticed meeting may adjourn the meeting to a date, time and place specified prior to adjournment which is no less than five (5) and no more than thirty (30) days after the time of the noticed meeting. A quorum at such later "adjourned meeting" shall be the presence in person or by proxy of no fewer than ten percent (10%) of all Owners.

3.6 Conduct of Meeting. If a quorum is present at any meeting or adjourned meeting, the first item of business thereat shall be the selection of a Director of Election, who shall preside over the conduct of the meeting. The Owners shall act by majority vote of a quorum, except that members of the Board shall be elected by plurality such that the individual receiving the highest number of votes shall be elected to fill one vacancy, the individual receiving the next highest number of votes shall be elected to fill a second vacancy (if any), and the individual receiving the next highest number of votes shall be elected to fill a third vacancy (if any).

3.7 Lists of Owners. The Association shall maintain up-to-date records showing the name of each person who is an Owner, the address of such person, and the Lot which is owned by such person. In the event of any transfer of a fee or undivided fee interest in a Lot, either the transferor or transferee shall furnish the Association 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 Davis County, Utah. The Association may for all purposes act and rely on the information concerning Owners and Lot ownership which is thus acquired by it, or at its option, the Association may act and rely on current ownership information respecting any Lot or Lots which is obtained from the office of the County Recorder of Davis County, Utah. The address of an Owner shall be deemed to be the address of the lot owned by such person unless the Association is otherwise advised.

4. ASSOCIATION

4.1 Formation of Association. The Association shall be a nonprofit Utah corporation or limited liability company charged with the duties and invested with the powers prescribed by law and set forth in its Articles and Bylaws and the Association. Neither the Articles nor Bylaws of the Association shall, for any reason, be amended or otherwise changed or interpreted so as to be inconsistent with this Declaration.

4.2 Board of Trustees and Officers. The affairs of the Association shall be conducted by the Board and such officers as the Board may elect or appoint in accordance with the Articles and Bylaws of the Association as the same may be amended from time to time. The initial Board shall be composed of five (5) natural persons, who need not be members of the Association. The Board may also appoint various committees and may appoint and hire at Association expense a manager who shall, subject to the direction of the Board, be responsible for the day-to-day

operation of the Association. The Board shall determine the compensation to be paid to the manager or any other employee of the Association. Until the end of the Declarant Control Period, the Declarant shall have the right to appoint and substitute all members of the Board.

4.3 Board Composition. Except for the initial Board and substitute Board members appointed by Declarant during the Declarant Control Period, all members of the Board must be Owners at the time of their election. Should any member move his or her residence outside of the Community, such member shall automatically be deemed to have resigned and the Board shall declare a vacancy. Upon expiration of the Declarant Control Period, all Board members appointed by the Declarant then serving shall be released from responsibility. The reorganization of the Board shall be by a vote of the then current Owners within the Community present at a duly called meeting of the Owners.

4.4 Term of Office. The term of office of each Board member elected following the termination of Declarant Control Period shall be as follows: each such Board member shall serve for terms of two (2) years beginning immediately upon their election by the Association; provided however that two (2) of the Board members elected at the first annual meeting at which Trustees are chosen by a vote of the Owners shall serve for an initial term of one (1) year, and thereafter, all trustees elected shall serve for two (2) years, commencing on the date of election and extending until a successor is elected pursuant to the Bylaws of the Association. Any such Board member may succeed himself, and there shall be no limit to the number of terms of any such member.

4.5 No Personal Liability. Neither the Declarant, any manager or member of Declarant, nor any member of the Board, officer, manager or other employee or committee member of the Association shall be personally liable to any Owner, or to any other person, including the Association, for any damage, loss, claim or prejudice suffered or claimed on account of any act, omission to act, negligence, or other matter, of any kind or nature related to his or her involvement in the affairs of the Association, except for acts of fraud or theft, or acts performed intentionally and with malice. The Association shall indemnify every officer and member of the Board against any and all expenses, including but not limited to attorneys' 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, managers and members of the Board shall not be liable for any mistake of judgment, negligent or otherwise, including any decision to not institute Proceedings except for their own individual acts performed intentionally and with malice and any acts that are *ultra vires*. The officers, managers 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 Owners), 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. After the Declarant Control Period and the first election of members of the Board by Owners, the Association shall, as a Common Expense, maintain adequate general liability and officers and directors insurance coverage to fund this obligation.

5. ASSESSMENTS

5.1 Obligation for Assessments. By accepting a deed or entering into a recorded contract to purchase any Unit, each Owner except Declarant and the Declarant Affiliates, covenants and agrees to pay to the Association all assessments authorized in the Governing Documents. Upon a transfer of title to a Unit, the grantee shall be jointly and severally liable for any assessments and other charges due at the time of conveyance. All Assessments, together with interest thereon, late charges, costs, and reasonable attorneys' fees for the collection thereof, shall be a charge on the Unit and shall be a continuing lien upon the Unit against which such Assessments are made (the "Assessment Lien").

5.1.1 The Board's failure to fix assessment amounts or rates or to deliver or mail each Owner an assessment notice shall not be deemed a waiver, modification, or a release of any Owner from the obligation to pay assessments. In such event, each Owner shall continue to pay Annual Assessments and Special Assessments at the rate established for the last year for which an assessment was made, if any, until a new assessment is levied, at which time the Association may retroactively assess any shortfall.

5.1.2 No Owner may exempt himself or herself from liability for assessments by non-use of Common Area, abandonment of his or her Unit, or non-use of services provided to all Units or to all Units within the Service Area to which the Unit is assigned. The obligation to pay assessments is a separate and independent covenant on the part of each Owner. No diminution or abatement of assessments or set-off shall be claimed or allowed for any alleged failure of the Association or Board to take some action or perform some function required of it, or for inconvenience or discomfort arising from the making of repairs or improvements, or from any other action it takes.

5.1.3 Upon written request, the Association shall furnish to any Owner liable for any type of assessment a certificate signed by an Association officer setting forth whether such assessment has been paid or any required payoff information for a transfer of a Unit. Such certificate shall be conclusive evidence of payment. The Association may require the advance payment of a reasonable processing fee for the issuance of such certificate, which fee shall not exceed the maximum amount permitted by the Association Act.

5.1.4 Notwithstanding anything to the contrary herein, Declarant shall be exempt from the payment of Annual Assessments and Special Assessments.

5.2 Exempt Property. The following property shall be exempt from payment of Annual Assessments and Special Assessments:

5.2.1 All Common Area and such portions of the property owned by the Declarant or any Declarant Affiliate as are included in the Area of Common Responsibility;

5.2.2 All Units or portions of the Property owned by Declarant and the Declarant Affiliates;

5.2.3 Any property dedicated to and accepted by any governmental authority, public school, public utility;

5.2.4 Property owned by any Neighborhood Association for the common use and enjoyment of its members, or owned by the members of a Neighborhood Association as tenants-in-common; and

5.2.5 Any property owned by any religious organization or house of worship.

5.2.6 In addition, the Association may, by resolution, grant exemptions to certain Persons qualifying for tax-exempt status under Section 501(c) of the Internal Revenue Code so long as such Persons own property subject to this Declaration for purposes listed in Section 501(c) of the Internal Revenue Code.

5.3 Use and Consumption Fees. The Association may offer services or facilities for which it does not recover its costs through assessments under this Article. The Board may charge use, consumption, and activity fees to any Person using Association services or facilities or participating in Association-sponsored activities. The Board may determine the amount and method of determining such fees. Different fees may be charged to different classes of users (e.g., Owners and non-Owners).

5.4 Annual Assessments. Commencing on March 1, 2013, an Annual Assessment shall be made against each Unit, except any Unit owned by Declarant, for the purpose of paying (or creating a reserve for) Common Expenses. Prior to March 1, 2013, Declarant shall be responsible for all necessary expenses related to the Common Areas.

5.5 Amount of Initial Annual Assessments and Subsequent Increases.

5.5.1 The initial Annual Assessment for the Assessment Period beginning on March 1, 2013 shall be \$336.00 per Unit. Annual Assessments for each Assessment Period thereafter shall continue at the rate of \$336.00 per Unit unless and until increased or decreased in accordance with this Declaration.

5.5.2 After March 1, 2013, the Annual Assessment may be increased each year in the discretion of the Board by not more than twenty-five percent (25%) of the Annual Assessment for the previous year.

5.5.3 From and after March 1, 2013, the Annual Assessment may be increased above twenty-five percent (25%) limit by a vote of sixty-six and two-thirds percent (66.66%) of the Owners (voting in person or by proxy) or Voting Delegates, as applicable, at a meeting duly called for that purpose.

5.5.4 All Annual Assessments and all other amounts required under this Declaration are in addition to all amounts required to be paid under the Master Declaration.

5.6 Special Assessments. In addition to the Annual Assessment authorized above, the Association may levy, except with respect to Units owned by Declarant or a Declarant Affiliate,

in any Assessment Period, a Special Assessment applicable to that period only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon any Common Area, or for the purpose of defraying other extraordinary expenses; provided that any such assessment shall have the assent of a majority of the total number of votes held by the Owners (voting in person or by proxy) at a meeting duly called for such purpose. Such Special Assessments shall be collected in monthly payments over a twelve-month period (or longer) unless the possibility of a more accelerated collection plan is duly noted in the notice for the Owners meeting held for the passage of the Special Assessment, and the more accelerated collection plan is separately approved by the assent of a majority of the total number of votes held by the Owners (voting in person or by proxy) at a meeting duly called for the passage of the Special Assessment.

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

Any Emergency Assessment in the aggregate in any fiscal year would exceed an amount equal to five percent (5%) of the budgeted expenses of the Association for the fiscal year may be levied only if approved by not less than a majority of the members other than the Declarant voting in person or by proxy, at a meeting duly called for such purpose and the written consent of Declarant.

5.8 Individual Assessments. Any expenses benefiting or attributable to fewer than all of the Lots may be assessed exclusively against the Lots benefited ("Individual Assessment"). Individual Assessments shall include, but are not limited to:

5.8.1 Assessments levied against any Lot to reimburse the Association for costs incurred in bringing the Lot or its Owner into compliance with the provisions of this Declaration or the Rules and for fines or other charges imposed pursuant to this Declaration for violation of this Declaration, the Bylaws or any of the Rules.

5.8.2 Expenses related to the costs of maintenance, repair, replacement and reserves of the Units.

5.9 Master Association Assessments. All Owners, except Declarant and the Declarant Affiliates, shall be subject to any and all assessments which the Master Association may levy pursuant to the Master Declaration.

5.10 Reserve Analysis and Reserve Funds. The Association shall establish and maintain a reserve fund for repairs and replacement of the landscaping or other Improvements by the allocation and payment monthly to such reserve fund in an amount to be designated from time to time by the Board. After the Declarant Control Period, the Board may not use money in the reserve fund for daily maintenance expenses, unless a majority of Owners vote to approve the use of the reserve fund money for that purpose or for any purpose other than the purpose for

which the reserve fund was established. The reserve fund shall be conclusively deemed to be a Common Expense of the Association. The Board shall maintain the reserve fund separate from other association funds, and may be deposited with any banking institution, the accounts of which are insured by an agency of the United States of America or may, in the discretion of the Board, be invested in obligations of, or fully guaranteed as to principal by, the United States of America.

The Association may establish such other reserves for such other purposes as the Board may from time to time consider to be necessary and appropriate.

Members of the Board shall not be personally liable for failure to adequately fund reserves absent evidence of gross mismanagement or willful conduct.

After the Declarant Control Period, the Board shall:

(a) cause a Reserve Analysis to be conducted no less frequently than every six years; and review and, if necessary, update a previously conducted Reserve Analysis no less frequently than every three years. The Board may conduct a Reserve Analysis itself or engage a reliable person or organization, as determined by the Board, to conduct the Reserve Analysis; and

(b) shall cause the Association annually at an annual or special meeting of Owners to: (i) present the Reserve Analysis; (ii) provide an opportunity for Owners to discuss reserves and to vote on whether to fund a reserve fund, and if so, how to fund it and in what amount; and (iii) prepare and keep minutes of each meeting held related to the reserve fund and indicate in the minutes any decision relating to funding a reserve fund.

5.11 Budget. At least annually the Board shall prepare and adopt a budget for the Association. The Board shall present the adopted budget to Owners at a meeting of the Owners. A budget is disapproved if, within 45 days after the date of the meeting of the Owners at which the Board presents the adopted budget, there is a vote of disapproval by at least 51% of all of the allocated voting interests of the Owners in the Association and the vote is taken at a special meeting call for that purpose by Owners under the Declaration, or the articles of incorporation or bylaws of the Association. If a budget is disapproved under the preceding sentence, the budget that the Board last adopted that was not disapproved by Owners continues as the budget for the Association until and unless the Board presents another budget to the Owners and that budget is not disapproved. During the Declarant Control Period, Owners may not disapprove a budget.

5.12 Failure of Notification. Written notice of the Annual Assessment shall be sent to each Owner. Failure of the Association to send a bill to any Owner shall not relieve such Person of liability for payment of any assessment or charge. The due dates shall be established by the Board.

5.13 Effect of Nonpayment. Each Assessment, together with such interest, collection charges, violation fees, and maintenance reimbursement (as deemed by the Board of Directors), and attorneys' fees, lien reimbursement and collection costs shall also be the personal obligation of the Owner of such Unit at the time the Assessment becomes due. Any assessment or charge or installment thereof not paid when due shall be deemed delinquent and shall bear interest from

fifteen (15) days after the due date until paid at the legal rate of interest or other reasonable rate not to exceed the legal rate, and the Owner shall be liable for all costs, including attorneys' fees, which may be incurred by the Association in collecting the same. The Board may also Record a Notice of Delinquent Assessment or Charge against any Unit as to which an assessment or charge is delinquent. The Notice shall be executed by an agent or officer of the Association or a member of the Board, set forth the amount of the unpaid assessment, the name of the delinquent Owner, and a description of the Unit. The Board may establish a fixed fee to reimburse the Association for the Association's cost in Recording such Notice, processing the delinquency, and Recording a release of such lien, which fixed fee shall be treated as part of the Assessment of the Association secured by the Assessment Lien. The Association may bring an action at law against the Owner personally obligated to pay the delinquent assessment and/or foreclose the lien against such Owner's Unit in the same manner as mortgages or non-judicial foreclosure of Deeds of Trust. In the event a non-judicial lien foreclosure is initiated, the Owner, by acceptance of a deed, irrevocably appoints the Association's attorney to act as trustee for any such foreclosure. In compliance with the Association Act, the Declarant hereby conveys and warrants pursuant to U.C.A. Sections 57-1-20 and 57-8a-402 to the Association's attorney, with power of sale, the Unit and improvements to the Unit for the purpose of securing payment of assessments under the terms of the Declaration. The trustee as designated under the prior two sentences is hereby authorized with the power of substitution.

5.14 Priority of Lien. The Assessment Lien provided for herein shall be subordinate to any first mortgage lien held by, or first deed of trust of which the beneficiary is, a lender who has loaned funds with a Unit as security, or held by the lender's successors and assigns, and shall also be subject and subordinate to liens for taxes and other public charges. Except as provided above, the Assessment Lien shall be superior to any and all charges, liens or encumbrances which hereafter in any manner may arise or be imposed upon each Unit. Sale or transfer of any Unit shall not affect the Assessment Lien.

5.15 Initial Special Assessment. Upon the transfer of any Unit from Declarant or a Declarant Affiliate to a new Owner (including a Builder), the Association shall charge a one-time Special Assessment against the new Owner, and his or her Unit, in an amount equal to one-half (1/2) of the then-current Annual Assessment, to cover the costs of capitalizing the Association, to fund working capital needs of the Association, to perpetuate the reserve funds of the Association and to reduce the Common Expenses of the Project. Subject to the terms of this Declaration, the use of any funds generated by the Special Assessment described in this Section shall be at the sole discretion of the Association.

5.16 Transfer Fee. Upon any transfer, pledge, or alienation of a Unit, the Association shall charge a transfer fee against any new Owner, and his or her Unit, in an amount equal to one-sixth (1/6) the then-current Annual Assessment, to cover the costs to the Association of effectuating any such transfer of membership upon the books of the Association, to fund working capital needs of the Association, to perpetuate the reserve funds of the Association and or to reduce the Common Expenses of the Project. Subject to the terms of this Declaration, the use of any funds generated by the transfer fee shall be at the sole discretion of the Association.

5.17 Budget Deficits During Declarant Control Period. During the Declarant Control Period, Declarant or an affiliate of Declarant may (a) advance funds to the Association sufficient

to satisfy the deficit, if any, between the actual operating expenses of the Association (but specifically not including an allocation for capital reserves) and the sum of the Annual Assessments and Special Assessments collected by the Association in any fiscal year, and such advances shall be evidenced by promissory notes from the Association in favor of Declarant or an affiliate of Declarant, or (b) cause the Association to borrow such amount from a commercial lending institution at the then prevailing rates for such a loan in the local area of the Community. Declarant or a Declarant affiliate, in Declarant's sole discretion may guarantee repayment of such loan, if required by the lending institution, but no mortgage secured by the Common Area or any of the Improvements maintained by the Association shall be given in connection with such loan.

6. RIGHTS AND POWERS OF ASSOCIATION

6.1 Association's Rights. In addition to the rights and powers of the Association set forth in this Declaration, the Association shall have such rights and powers as are set forth in its Articles and Bylaws.

6.2 Levy and Collection Assessments. The Association shall have right to levy assessments and collect such assessments as provided herein.

6.3 Proceedings. The Association, acting through the Board, shall have the power and the duty to reasonably defend the Association (and, in connection therewith, to raise counterclaims) in any pending or potential lawsuit, arbitration, mediation or governmental proceeding (collectively referred to herein as a "Proceeding"). The Association, acting through the Board, shall have the power, but not the duty, to reasonably institute, prosecute, maintain and/or intervene in a Proceeding, in its own name, but only on matters affecting or pertaining to this Declaration or the Common Areas and as to which the Association is a proper party in interest, and any exercise of such power shall be subject to full compliance with the following provisions:

6.3.1 Operational Proceedings. Any Proceeding commenced by the Association to: (i) enforce the payment of an assessment or an Assessment Lien or other lien against an Owner as provided for in this Declaration, (ii) otherwise enforce compliance with the Governing Documents by, or to obtain other relief from, any Owner who has violated any provision thereof, (iii) protect against any matter which imminently and substantially threatens the health, safety and welfare of the Owners, (iv) pursue a supplier, vendor, contractor or provider of services, pursuant to a contract or purchase order with the Association and in the ordinary course of business, or (v) recover money damages wherein the total amount in controversy for all matters arising in connection with the action is not likely to exceed Ten Thousand Dollars (\$10,000.00) in the aggregate; shall be referred to herein as an "Operational Proceeding". The Board from time to time may cause an Operational Proceeding to be reasonably commenced and prosecuted, without the need for further authorization;

6.3.2 Non-Operational Controversy. Any and all pending or potential Proceedings other than Operational Proceedings shall be referred to herein as a "Non-Operational Controversy" or "Non-Operational Controversies". To protect the

Association and the Owners from being subjected to potentially costly or prolonged Non-Operational Controversies without full disclosure, analysis and consent; to protect the Board and individual members of the Board or its appointed officers and agents from any charges of negligence, breach of fiduciary duty, conflict of interest or acting in excess of their authority or in a manner not in the best interests of the Association and the Owners; and to ensure voluntary and well-informed consent and clear and express authorization by the Owners, strict compliance with all of the following provisions of this Section shall be mandatory with regard to any and all Non-Operational Controversies commenced, instituted or maintained by the Board:

6.3.3 Dispute Resolution. The Board shall first endeavor to resolve any Non-Operational Controversy by good faith negotiations with the adverse party or parties. In the event that such good faith negotiations fail to reasonably resolve the Non-Operational Controversy, the Board shall then endeavor in good faith to resolve such Non-Operational Controversy by mediation, provided that the Board shall not incur liability for or spend more than Five Thousand and No/100 Dollars (\$5,000.00) in connection therewith (provided that, if more than said sum is reasonably required in connection with such mediation, then the Board shall be required first to reasonably seek approval of a majority of the voting power of the Owners or Voting Delegates, as applicable, for such additional amount for mediation before proceeding to either arbitration or litigation). In the event that the adverse party or parties refuse mediation, or if such good faith mediation still fails to reasonably resolve the Non-Operational Controversy, the Board shall not be authorized to commence, institute or maintain any arbitration or litigation of such Non-Operational Controversy until the Board has fully complied with the following procedures:

6.3.3.1 The Board shall first investigate the legal merit, feasibility and expense of prosecuting the Non-Operational Controversy, by obtaining the written opinion of a licensed Utah attorney regularly residing in Salt Lake or Davis Counties, Utah, with a Martindale – Hubbell rating of "av", expressly stating that such attorney has reviewed the underlying facts and data in sufficient, verifiable detail to render the opinion, and expressly opining that the Association has a substantial likelihood of prevailing on the merits with regard to the Non-Operational Controversy, without substantial likelihood of incurring any material liability with respect to any counterclaim which may be asserted against the Association. The Board shall be authorized to spend up to an aggregate of Five Thousand and No/100 Dollars (\$5,000.00) to obtain such legal opinion, including all amounts paid to said attorney therefore, and all amounts paid to any consultants, contractors and/or experts preparing or processing reports and/or information in connection therewith. The Board may increase said Five Thousand and No/100 Dollars (\$5,000.00) limit, with the express consent of more than fifty percent (50%) of all of the Owners or Voting Delegates of the Association, at a special meeting called for such purpose;

6.3.3.2 Said attorney opinion letter shall also contain the attorney's best good faith estimate of the aggregate maximum "not-to-exceed" amount of legal fees and costs, including, without limitation, court costs, costs of investigation

and all further reports or studies, costs of court reporters and transcripts, and costs of expert witnesses and forensic specialists (all collectively, "Quoted Litigation Costs") which are reasonably expected to be incurred for prosecution to completion (including appeal) of the Non-Operational Controversy. Said opinion letter shall also include a draft of any proposed fee agreement with such attorney. If the attorney's proposed fee arrangement is contingent, the Board shall nevertheless obtain the Quoted Litigation Costs with respect to all costs other than legal fees, and shall also obtain a written draft of the attorney's proposed contingent fee agreement (Such written legal opinion, including the Quoted Litigation Costs, and also including any proposed fee agreement, contingent or non-contingent, are collectively referred to herein as the "Attorney Letter");

6.3.3.3 Upon receipt and review of the Attorney Letter, if two-thirds (2/3) or more of the Board affirmatively vote to proceed with the institution or prosecution of, and/or intervention in, the Non-Operational Controversy, the Board thereupon shall duly notice and call a special meeting of the Owners or Voting Delegates, as applicable. The written notice to each Owner or Voting Delegate of the Association shall include a copy of the Attorney Letter, including the Quoted Litigation Costs and any proposed fee agreement, contingent or non-contingent, together with a written report ("Special Assessment Report") prepared by the Board: (A) itemizing the amount necessary to be assessed to each Owner ("Special Litigation Assessment"), on a monthly basis, to fund the Quoted Litigation Costs, and (B) specifying the probable duration and aggregate amount of such Special Litigation Assessment. At said special meeting, following review of the Attorney Letter, Quoted Litigation Costs, and the Special Assessment Report, and full and frank discussion thereof, including balancing the desirability of instituting, prosecuting and/or intervening in the Non-Operational Controversy against the desirability of accepting any settlement proposals from the adversary party or parties, the Board shall call for a vote of the Owners or Voting Delegates, as applicable, whereupon: (a) if not more than fifty percent (50%) of the total voting power of the Association votes in favor of pursuing such Non-Operational Controversy and levying the Special Litigation Assessment, then the Non-Operational Controversy shall not be pursued further, but (b) if more than fifty percent (50%) of the total voting power of the Association (i.e., more than fifty percent (50%) of all of the Owners or Voting Delegates, as applicable, of the Association) affirmatively vote in favor of pursuing such Non-Operational Controversy, and in favor of levying a Special Litigation Assessment on the Owners in the amounts and for the duration set forth in the Special Assessment Report, then the Board shall be authorized to proceed to institute, prosecute, and/or intervene in the Non-Operational Controversy. In such event, the Board shall engage the attorney who gave the opinion and quote set forth in the Attorney Letter, which engagement shall be expressly subject to the Attorney Letter. The terms of such engagement shall require (i) that said attorney shall be responsible for all attorneys' fees, costs and expenses whatsoever in excess of one hundred twenty percent (120%) of the Quoted Litigation Costs, and (ii) that said attorney shall provide, and the Board shall distribute to the Owners, not less frequently than quarterly, a written update of the progress and current status of, and the

attorney's considered prognosis for, the Non-Operational Controversy, including any offers of settlement and/or settlement prospects, together with an itemized summary of the attorney's fees and costs incurred to date in connection therewith; and

6.3.3.4 In the event of any bona fide settlement offer from the adverse party or parties in the Non-Operational Controversy, if the Association's attorney advises the Board that acceptance of the settlement offer would be reasonable under the circumstances, or would be in the best interests of the Association, or that said attorney no longer believes that the Association is assured of a substantial likelihood of prevailing on the merits without prospect of material liability on any counterclaim, then the Board shall have the authority to accept such settlement offer. In all other cases, the Board shall submit any settlement offer to the Owners, who shall have the right to accept any such settlement offer upon a majority vote of all of the Owners or Voting Delegates, as applicable, of the Association:

(a) In no event shall any Association working capital fund be used as the source of funds to institute, prosecute, maintain and/or intervene in any Proceeding (including, but not limited to, any Non-Operational Controversy).

(b) Any provision in this Declaration notwithstanding: (i) other than as set forth in this Section, the Association shall have no power whatsoever to institute, prosecute, maintain, or intervene in any Proceeding, (ii) any institution, prosecution, or maintenance of, or intervention in, a Proceeding by the Board without first strictly complying with, and thereafter continuing to comply with, each of the provisions of this Section, shall be unauthorized and *ultra vires* (i.e., an unauthorized and unlawful act, beyond the scope of authority of the Association or of the person(s) undertaking such act) as to the Association, and shall subject any member of the Board who voted or acted in any manner to violate or avoid the provisions and/or requirements of this Section 6.3 to personal liability to the Association for all costs and liabilities incurred by reason of the unauthorized institution, prosecution, or maintenance of, or intervention in, the Proceeding; and (iii) this Section 6.3 may not be amended or deleted at any time without the express prior written approval of both: (1) Owners or Voting Delegates, as applicable, representing not less than seventy-five percent (75%) of the total voting power of Association, and (2) not less than seventy-five percent (75%) of the total voting power of the Board; and any purported amendment or deletion of this Section, or any portion hereof, without both of such express prior written approvals shall be void.

6.4 Continuing Rights of Declarant. Declarant shall preserve the right, without obligation, to enforce the Governing Documents (including, without limitation, the Association's duties of maintenance and repair, and reserve study and reserve fund obligations). After the end

of the Declarant Control Period, and throughout the term of this Declaration, the Board shall deliver to Declarant notices and minutes of all Board meetings and meetings of the Owners, and Declarant shall have the right, without obligation, to attend such meetings, on a non-voting basis. Declarant shall also receive notice of, and have the right, without obligation, to attend, all inspections of the Properties or any portion(s) thereof. The Board shall also, throughout the term of this Declaration, deliver to Declarant (without any express or implied obligation or duty on Declarant's part to review or to do anything) all notices and correspondences to Owners and Voting Delegates, all inspection reports, any reserve studies prepared, maintenance reports, and audited or reviewed annual reports. Such notices and information shall be delivered to Declarant at its most recently designated address.

7. USE RESTRICTIONS & RULE MAKING AUTHORITY

7.1 Use Restrictions. The Properties shall be held, used and enjoyed subject to the restrictions set forth in the Master Declaration as well as the following restrictions.

7.2 Exterior Structural and/or Aesthetic Alterations. No Improvement shall be commenced, erected, placed or altered on any Unit until an application and construction plans and specifications, showing the nature, shapes, heights, materials, colors and proposed location of Improvements or changes have been submitted to and approved in writing by the DRC (as defined in the Master Declaration).

7.3 Single Family Residence. Each Unit shall be improved and used solely as a residence for a single Family (as the term "Family" is defined in this Declaration) and for no other purpose, unless such use is allowed pursuant to the Master Declaration. Except as provided in this subsection, no trade, craft, business, profession, commercial or similar activities of any kind shall be conducted on any Lot or in any other portion of the Community without the written consent of the Board pursuant to the Rules:

7.4 Landscaping. All Back Yard Landscaping for each Unit shall be installed by the Owner of the home no later than thirty (30) days after the initial close of escrow or occupancy (whichever is earlier) for the Residence on the Unit, provided, however, that if seasonal temperatures do not permit installation of the landscaping at that time, then the landscaping shall be installed by the Owner within six (6) months thereafter unless otherwise extended by the Board pursuant to a written extension of time. "Back Yard Landscaping" for purposes of this Declaration is defined as landscaping within the privately fenced back yard portion of each Unit. Although the Back Yard Landscaping shall be within a Limited Common Area, Owner shall have the obligation to maintain, repair and, if necessary, replace the Back Yard Landscaping.

7.5 Storage. The storage or accumulation of junk, trash, manure or other offensive or commercial materials is prohibited. Facilities for hanging, drying or airing clothing or household fabrics shall only be allowed in the Back Yard Landscaping area of a Unit and shall be appropriately screened from view. No pads used for the storage of vehicles or other material either temporarily or permanently shall be constructed by an Owner unless it is within the Back Yard Landscaping area and conforms with the Rules and this Declaration.

7.6 Easements. Easements for installation of and maintenance of utilities, drainage facilities, and water tank access and lines are reserved as shown on the Recorded Plat. Within these easements, no structure, planting, or other materials shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities or water tank lines or which may change the direction of flow of drainage channels in the areas or which may obstruct or retard the flow of water through drainage channels in the easements. The easement area of each of the Units and all improvements in it shall be maintained continuously by the Owner of the Unit, except for those improvements for which a public authority or utility company is responsible.

7.7 Declarant Exemption. Units owned by Declarant are exempt from the provisions of this Article 7, until such time as Declarant conveys title to the Unit to a third-party. All activities of Declarant reasonably related to Declarant's development, construction, sales, and marketing efforts, shall be exempt from the provisions of this Article 7. This Article 7 may not be amended without Declarant's prior written consent.

7.8 Variance. Any exceptions to the provisions of Article 7 must be obtained by the written permission of the Board. Any variance must also be in accordance with city and other governmental requirements.

7.9 Offensive Activities. No noxious, offensive or unsightly conditions, including, but not limited to, the placement or storage of car parts and appliances, or activities shall be permitted on any Lot or other portion of the Property, nor shall anything be done in or placed upon any Lot which interferes with or jeopardizes the enjoyment of other Lots or the Common or which is a source of annoyance to residents. The Board shall have the authority to define "noxious, offensive and unsightly conditions" pursuant to the prevailing and desired "Standard."

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

7.11 Animals.

7.11.1 The only pets that may be raised, bred or kept are those animals that comply with the North Salt Lake City Code that are domestic dogs, cats, fish, birds and other usual household pets. Animals cannot be raised, bred or kept for commercial purposes.

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

7.11.3 An Owner may be required to remove a pet upon receipt of a written notice from the Board given pursuant to a resolution relating to rules and regulations governing pets within the Community and enforcement of such rules and regulations and provisions of this subsection.

7.12 Rubbish and Trash. No part of the Property may be used or maintained as a dumping ground for rubbish, trash, garbage, or any other waste. No garbage, trash, or other waste may be kept or maintained on any part of the Property except in a sanitary container as specified by the Association or within a trash enclosure screened from public view. All such waste and garbage must be promptly and periodically removed.

7.13 Vehicles in Disrepair.

7.13.1 No Owner shall permit any vehicle which is in an extreme state of disrepair to be abandoned or to remain parked upon any part of the Property unless such vehicle is within a garage. A vehicle shall be deemed in an "extreme state of disrepair" when the Board reasonably determines that its presence offends the occupants of the other Lots.

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

7.14 Fences and Hedges. No fences or boundary hedges shall be installed by an Owner without the prior written approval of the DRC (as defined in the Master Declaration. The DRC, with the approval of the Board, may establish a common fencing and hedge standard to be applied to all Lots. Fencing materials and/or color will be permitted only if prior written approval from the DRC is first obtained.

7.15 Yard Areas. No items of any kind may be stored in front yard areas or other areas of Lots so as to be visible from public view. In order to preserve the attractive appearance of the Property, the Board, pursuant to the Rules, may regulate the nature of items which may be placed in front yard areas and others areas of Lots so as to be visible from public view.

7.16 Antennas and Service Facilities. Exterior antennas and satellite dishes shall not be permitted to be placed upon the exterior of the front or sides of any structure, except as permitted by the DRC. The DRC shall follow all applicable federal, state and local law regarding such reception devices when making its decisions.

7.17 Noise Disturbance. Owners shall exercise extreme care about making noises or the use of musical instruments, radios, televisions, or amplifiers and may not disturb other residents.

7.18 Increase in Insurance Cost. Unless approved by the Board, nothing shall be done or kept within any Lot or the Common Area which will increase the cost of insurance to the Association or to other Owners. No Owner shall permit anything to be done or kept within his or her Lot or in the Common Area which will result in cancellation of insurance on any Lot or any part of the Common Area.

7.19 Leasing. No Unit may be leased for vacation rentals, time shares, transient or hotel purposes. Any lease shall be for a term of at least twelve (12) continuous months or shall

otherwise be considered for transient purposes. The terms of any lease of a Unit shall be made expressly subject to the Governing Documents and shall provide that any failure by the lessee of such Unit to comply with the terms of the Governing Documents shall constitute a default under the lease. All leases shall be provided to the Association prior to the commencement of the lease. All lease agreements shall be made in accordance with this Declaration. No Owner may lease individual rooms to separate persons or less than his or her entire Unit. The Board or Association may require a reasonable administrative fee in connection with the Board's review of a lease agreement to determine compliance with this Section 7.19.

7.20 Signs. No signs, billboards, nor advertising structures may be erected or displayed on any Lots, except that a single sign, not more than 3 feet by 3 feet in size, advertising a specific Lot for sale or house for rent or construction sign, may be displayed on the premises affected; provided however that Declarant may erect such signs as are deemed necessary by Declarant for its construction and marketing activities, and all such signs must be removed at such time that all the Lots in the subdivision are sold and Declarant has completed its marketing activities.

7.21 Prohibited Direct Access. There shall be no direct vehicular access to Skipton Drive from Lots 74 through 77, inclusive of the "Foxboro North Stonehaven West P.U.D." Plat.

7.22 Rule Making Authority. The Governing Documents establish a framework of covenants and conditions that govern the Community. However, within that framework, the Association must be able to respond to unforeseen issues and changes affecting the Community. Therefore, the Board is authorized to change the Rules in accordance with the following procedures, subject to the limitations set forth in Section 7.21.

7.22.1 Board Authority. Subject to the notice requirements in Section 7.20.3 and the Board's duty to exercise judgment and reasonableness on behalf of the Association and the Owners, the Board may adopt new Rules and modify or rescind existing Rules by majority vote of the Board members at any Board meeting.

7.22.2 Voting Delegate/Owner Authority. Subject to the notice requirements in Section 7.20.3 below, the Owners of a majority of the votes in the Association may also adopt new Rules and modify or rescind existing Rules at any meeting of the Association duly called for such purpose, regardless of the manner in which the original Rule was adopted. However, as long as the Declarant membership exists, any such action shall also be subject to the Declarant's approval.

7.22.3 Notice. The Board shall send notice to all Owners concerning any proposed Rule change at least five business days prior to the meeting of the Board or Owners at which such action is to be considered. The notice must provide reasonably specific detail of the Rule(s) being considered to be changed and the proposed change. At any such meeting, Owners shall have a reasonable opportunity to be heard before the proposed action is put to a vote. This notice requirement does not apply to administrative and operating policies that the Board may adopt relating to the Common Areas, such as hours of operation of a recreational facility, speed limits on private roads, and the method

of allocating or reserving use of a facility (if permitted) by particular individuals at particular times, notwithstanding that such policies may be published as part of the Rules.

7.22.4 **Effective Date.** A Rules change adopted under this Section shall take effect 30 days after the date on which written notice of the Rules change is given to the Owners.

7.22.5 **Conflicts.** No action taken under this Section shall have the effect of modifying or repealing the Design Guidelines or any provision of this Declaration other than the Rules. In the event of a conflict between the Design Guidelines and the Rules, the Design Guidelines shall control. In the event of a conflict between the Rules and any provision of this Declaration (exclusive of the Rules), the Declaration shall control. Notwithstanding, neither this Declaration nor the Rules or Design Guidelines shall have limit or lessen the application or effect of any ordinance or regulation of the City.

7.23 **Protection of Owners and Others.** Except as may be set forth in this Declaration (either initially or by amendment), all Rules shall comply with the following provisions:

7.23.1 **Similar Treatment.** Similarly situated Units shall be treated similarly; however, the Rules may vary by location, use, or other distinct characteristics of areas with the Community.

7.23.2 **Displays.** No Rule shall prohibit an Owner or occupant from displaying political, religious, or holiday symbols and decorations on his or her Unit of the kinds normally displayed in single family residential neighborhoods, nor shall any Rule regulate the content of political signs. However, the Association may adopt time, place, and manner restrictions with respect to signs, symbols, and displays visible from outside structures on the Unit, including reasonable limitations on size and number. Notwithstanding the above regulation, an Owner or occupant may display one portable and removable United States flag on his or her Unit by a bracket or other device mounted to the dwelling, so long as the flag is displayed in a respectful manner, provided, the Association may adopt reasonable time, place, and manner restrictions with respect to the display of the United States Flag, including a reasonable limitation on size.

7.23.3 **Household Composition.** No Rule shall interfere with an Owner's freedom to determine household composition, except that the Association may impose and enforce reasonable occupancy limitations and conditions based on Unit size and facilities and its fair share use of the Common Area.

7.23.4 **Activities Within Dwellings.** No Rule shall interfere with the activities carried on within a dwelling, except that the Association may prohibit activities not normally associated with residential property. It may also restrict or prohibit activities that create monetary costs for the Association or other Owners, that create a danger to anyone's health or safety, that generate excessive noise or traffic, that create unsightly conditions visible from outside the dwelling, or that are an unreasonable source of annoyance. The Association's authority to impose such Rules shall in no way lessen the effect of any ordinances or regulations of the City.

7.23.5 Allocation of Burdens and Benefits. No Rule shall alter the allocation of financial burdens among the various Units or rights to use the Common Area to the detriment of any Owner over that Owner's objection expressed in writing to the Association. Nothing in this provision shall prevent the Association from changing the Common Area available, from adopting generally applicable rules for use of Common Area, or from denying use privileges to those who are delinquent in paying assessments, abuse the Common Area, or violate the Governing Documents.

7.23.6 Leasing and Transfer of Units. Except as expressly authorized by this Declaration, no Rule shall prohibit leasing or transfer of any Unit or require approval prior to leasing or transferring a Unit.

7.23.7 Abridging Existing Rights. No Rule shall require that an Owner dispose of personal property kept in or on a Unit in compliance with the Rules in effect at the time such personal property was brought onto the Unit. This exemption shall apply only during the period of such Owner's ownership of the Unit and shall not apply to subsequent Owners who take title to the Unit after adoption of the Rule.

7.23.8 Reasonable Rights to Develop. No Rule may unreasonably interfere with the ability of the Declarant any Declarant Affiliate to develop, market, and sell property in the Community.

7.23.9 Interference with Easements. No Rule may unreasonably interfere with the exercise of any easement.

7.23.10 Conflict with Rules of Master Association. No Rule may conflict with a rule or regulation promulgated pursuant to the Master Declaration.

7.24 Owners' Acknowledgment and Notice to Purchasers. By accepting a deed, each Owner acknowledges and agrees that the use, enjoyment, and marketability of his or her Unit is limited and affected by the Rules, which may change from time to time. All Unit purchasers are hereby notified that the Association may have adopted changes to the Rules and that such changes may not be set forth in a recorded document. A copy of the current Rules and all administrative policies are available from the Association upon request. The Association may charge a reasonable fee to cover its reproduction cost.

8. COMPLIANCE AND ENFORCEMENT

8.1 Compliance. Every Owner, tenant, occupant and visitor to a Unit must comply with the Governing Documents and shall be subject to sanctions for violations as described in this Article. In addition, each Owner shall be responsible for, and may be sanctioned for, all violations of the Governing Documents by the occupants, tenants, guests, or invitees to their Units and for any damage to the Area of Common Responsibility that such Persons may cause.

8.2 Remedies for Non-Compliance. The Association, the Declarant, any Declarant Affiliate, and every affected Owner shall have the right to file suit at law or in equity to enforce the Governing Documents. In addition, the Board may impose sanctions for violation of the

Governing Documents, including those sanctions listed below and any others described elsewhere in the Governing Documents.

8.2.1 Sanctions Requiring Prior Notice and Hearing. After written notice and an opportunity for a hearing in accordance with the Bylaws, the Board may:

8.2.1.1 Impose reasonable monetary fines, which shall constitute a lien upon the violator's Unit. In the event that any occupant, tenant, guest, or invitee of a Unit violates the Governing Documents and a fine is imposed, the fine may, but need not, first be assessed against the violator; provided, if the fine is not paid by the violator within the time period set by the Board, the Owner shall pay the fine upon notice from the Board; unpaid fines shall be collected as an Individual Assessment with all available remedies applicable thereto;

8.2.1.2 Suspend an Owner's right to vote (except that no notice or hearing is required if the Owner is more than 90 days delinquent in paying any Annual Assessment or Special Assessment);

8.2.1.3 Suspend any Person's right to use any Common Area (A) for any period during which any charge against such Owner's Unit remains delinquent, and (B) for a period not to exceed 30 days for a single violation or for a longer period in the case of any continuing violation (except that no hearing is required if the Owner is more than 60 days delinquent in paying any assessment or other charge owed the Association); provided, nothing herein shall authorize the Board to limit ingress or egress to or from a Unit;

8.2.1.4 Suspend services the Association provides (except that no hearing is required if the Owner is more than 60 days delinquent in paying any assessment or other charge owed to the Association);

8.2.1.5 Exercise self-help or take action to abate any violation of the Governing Documents in a non-emergency situation (including removing personal property that violates the Governing Documents);

8.2.1.6 Require an Owner, at its own expense, to remove any structure or improvement on such Owner's Unit in violation of the Governing Documents and to restore the Unit to its previous condition and, upon failure of the Owner to do so, the Board or its designee shall have the right to enter the property, remove the violation and restore the property to substantially the same condition as previously existed, with all charges and fees associated with such action being charged to the Owner as an Individual Assessment, and any such action shall not be deemed a trespass;

8.2.1.7 Without liability to any Person, preclude any contractor, subcontractor, agent, employee, or other invitee of an Owner who fails to comply with the terms and provisions of the Governing Documents, including the Design Guidelines, from continuing or performing any further activities in the Community;

8.2.1.8 Levy Special Assessments to cover costs the Association incurs in bringing a Unit into compliance with the requirements under the Governing Documents; and

8.2.1.9 Record a notice of violation or notice of non-compliance with respect to any Unit on which a violation exists.

8.2.2 Other Sanctions. The Board may take the following actions to obtain compliance with the Governing Documents without prior notice or a hearing:

8.2.2.1 Exercise self-help or take action to abate a violation on a Unit in any situation which requires prompt action to avoid potential injury or damage or unreasonable inconvenience to other persons or their property (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules and regulations);

8.2.2.2 Exercise self-help or take action to abate a violation on the Common Area under any circumstances;

8.2.2.3 Require an Owner, at its own expense, to perform maintenance or to remove any structure or improvement on such Owner's Unit, that is in violation of the Governing Documents and to restore the property to its previous condition;

8.2.2.4 Enter the property and exercise self-help to remove or cure a violating condition if an Owner fails to take action as required pursuant to Section 8.2.2.3 above within 10 days after receipt of written notice to do so, and any such entry shall not be deemed a trespass; or

8.2.2.5 Bringing suit at law for monetary damages or in equity to stop or prevent any violation, or both.

8.3 Board Decision to Pursue Enforcement Action. The decision to pursue enforcement action in any particular case shall be left to the Board's discretion, except that the Board shall not be arbitrary or capricious in taking enforcement action. For example, the Board may determine that, in a particular case:

8.3.1 The Association's position is not strong enough to justify taking any or further action;

8.3.2 The covenant, restriction or rule being enforced is, or is likely to be construed as, inconsistent with applicable law;

8.3.3 Although a technical violation may exist or may have occurred, it is not of such a material nature as to be objectionable to a reasonable person or to justify expending the Association's resources; or

8.3.4 That it is not in the Association's best interests, based upon hardship, expense, or other reasonable criteria, to pursue enforcement action.

A decision not to enforce a particular provision shall not prevent the Association from enforcing the same provision at a later time or prevent the enforcement of any other covenant, restriction, or rule.

8.4 Attorneys Fees and Costs. In any action to enforce the Governing Documents, the prevailing party shall be entitled to recover all costs, including, without limitation, attorneys fees and court costs, reasonably incurred in such action.

8.5 Enforcement of Ordinances. The Association, by contract or other agreement, may enforce applicable city and county ordinances. In addition, the County or the City may enforce ordinances within the Community.

9. TERM OF DECLARATION; TERMINATION AND AMENDMENTS

9.1 Term and Termination. This Declaration shall be effective for a minimum of 30 years from the date it is recorded. After 30 years, this Declaration shall be extended automatically for successive 10-year periods unless at least 67% of the then Owners sign a document stating that this Declaration is terminated and that document is recorded within the year before any extension. In such case, this Declaration shall terminate on the date specified in the termination document.

9.1.1 If any provision of this Declaration would be unlawful, void, or voidable by reason of any rule restricting the period of time that covenants can affect title to property, that provision shall expire 21 years after the death of the last survivor of the now living descendants of Elizabeth II, Queen of England.

9.1.2 This Section shall not permit termination of any easement created in this Declaration without the consent of the holder of such easement.

9.2 Amendment.

9.2.1 By Declarant. In addition to specific amendment rights granted elsewhere in this Declaration, until termination of the Declarant Control Period, the Declarant may unilaterally amend this Declaration for any purpose. Thereafter, the Declarant may unilaterally amend this Declaration if such amendment is necessary (a) to bring any provision into compliance with any applicable governmental statute, rule, regulation, or judicial determination; (b) to correct any scrivener's error; (c) to enable any reputable title insurance company to issue title insurance coverage on the Units; (d) to enable any institutional or governmental lender, purchaser, insurer, or guarantor of mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to make, purchase, insure, or guarantee mortgage loans on the Units; or (e) to satisfy the requirements of any local, state, or federal governmental agency. However, any amendment under this paragraph shall not adversely affect the title to any Unit unless the Owner shall consent in writing.

9.2.2 By Owners. Except as otherwise specifically provided above and elsewhere in this Declaration, this Declaration may be amended only by the affirmative vote or written consent, or any combination thereof, of the Owner or Voting Delegates representing 67% of the total votes in the Association, including 67% of the total votes held by Owners other than the Declarant and the Declarant Affiliates. In addition, during the Development and Sale Period, any such amendment shall also require the Declarant's written consent. Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

9.2.3 Validity and Effective Date. No amendment may remove, revoke, or modify any right or privilege of the Declarant without the written consent of the Declarant (or the assignee of such right or privilege). If an Owner consents to any amendment to this Declaration or the Bylaws, it will be conclusively presumed that such Owner has the authority to consent, and no contrary provision in any Mortgage or contract between the Owner and a third party will affect the validity of such amendment. Any amendment shall become effective upon recording unless a later effective date is specified in the amendment. Any procedural challenge to an amendment must be made within six months of its recordation, or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of this Declaration.

9.2.4 Exhibits. Exhibit "A" and Exhibit "B" are incorporated by this reference, and this Article shall govern amendment of those exhibits. All other exhibits, if any, are attached for informational purposes and may be amended as provided in those exhibits or in the provisions of this Declaration that refer to such exhibits.

10. RIGHTS OF LENDERS

10.1 Notices of Action. An institutional holder, insurer, or guarantor of a first Mortgage that provides a written request to the Association (such request to state the name and address of such holder, insurer, or guarantor and the street address of the Unit to which its Mortgage relates, thereby becoming an "Eligible Holder"), will be entitled to timely written notice of:

10.1.1 Any condemnation loss or any casualty loss that affects a material portion of the Community or that affects any Unit on which there is a first Mortgage held, insured, or guaranteed by such Eligible Holder; and

10.1.2 Any delinquency in the payment of assessments or charges owed by a Unit subject to the Mortgage of such Eligible Holder, where such delinquency has continued for a period of 60 days, or any other violation of the Governing Documents relating to such Unit or the Owner or occupant which is not cured within 60 days.

10.1.3 Any lapse, cancellation, or material modification of any insurance policy maintained by the Association; or

10.1.4 Any proposed action, which would require the consent of a specified percentage of Eligible Holders.

10.2 No Priority. No provision of this Declaration or the Bylaws gives or shall be construed as giving any Owner or other party priority over any rights of the first Mortgagee of any Unit in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Area.

10.3 Notice to Association. Upon request, each Owner shall be obligated to furnish to the Association the name and address of the holder of any Mortgage encumbering such Owner's Unit.

10.4 Failure of Mortgagee to Respond. Any Mortgagee who receives a written request from the Board to respond to or consent to any action shall be deemed to have approved such action if the Association does not receive a written response from the Mortgagee provided the Board has followed the procedures required by Section 57-8a-210 of the Association Act, as applicable and as such may be amended from time to time.

10.5 Construction of Article 10. Nothing contained in this Article 10 shall be construed to reduce the percentage vote that must otherwise be obtained under this Declaration, the Bylaws or Utah law for any of the acts set out in this Article.

10.6 HUD/VA Approval. The following actions shall require the prior approval of the U.S. Department of Housing and Urban Development ("HUD") or the U.S. Department of Veterans Affairs ("VA"), if either such agency is insuring or guaranteeing the Mortgage on any Unit: merger, consolidation, or dissolution of the Association; annexation of additional property other than that described in **Exhibit "B"**; dedication, conveyance (other than to correct errors on property descriptions or other inconsequential or immaterial conveyances), or mortgaging of Common Area; or material amendment of this Declaration of the Bylaws. Notwithstanding anything to the contrary in this Article, the Association, acting through the Board, may grant easements over the Common Area for installation and maintenance of utilities and drainage facilities and for other purposes not inconsistent with the intended use of the Common Area, without the approval of the membership, or HUD or VA.

11. MANDATORY BINDING ARBITRATION FOR MATTERS INVOLVING DECLARANT

The Association is bound by the terms of this Declaration. By acceptance of a grant deed of a Unit, each Owner is deemed to have accepted and agreed to comply with the terms of this Declaration, including the terms of this Article 11.

11.1 ANY AND ALL CLAIMS, CONTROVERSIES, BREACHES OR DISPUTES (EACH A "DISPUTE") INVOLVING THE DECLARANT OR ANY DECLARANT AFFILIATE, AND ANY OWNER OR THE ASSOCIATION ARISING OUT OF OR RELATED TO THIS DECLARATION, THE UNITS, THE SALE OF THE UNIT AND PROPERTY BY DECLARANT, OR ANY TRANSACTION RELATED HERETO, WHETHER SUCH DISPUTE IS BASED ON CONTRACT, TORT, STATUTE OR EQUITY, INCLUDING, WITHOUT LIMITATION, ANY DISPUTE OVER (1) THE DISPOSITION OF

ANY DEPOSITS HEREUNDER, (2) BREACH OF CONTRACT, (3) NEGLIGENCE OR INTENTIONAL MISREPRESENTATION OR FRAUD, (4) NONDISCLOSURE, (5) BREACH OF ANY ALLEGED DUTY OF GOOD FAITH AND FAIR DEALING, (6) ALLEGATIONS OF LATENT OR PATENT CONSTRUCTION DEFECTS, OR (7) ANY OTHER MATTER ARISING OUT OF OR RELATED TO THE INTERPRETATION OF ANY TERM OR PROVISION OF THIS OFFER OR THE AGREEMENT, OR ANY DEFENSE GOING TO THE FORMATION OR VALIDITY OF THIS DECLARATION, OR ANY PROVISION RELATED TO THE SALE OF THE UNITS, INCLUDING, WITHOUT LIMITATION, ALLEGATIONS OF UNCONSCIONABILITY, FRAUD IN THE INDUCEMENT, OR FRAUD IN THE EXECUTION, SHALL BE ARBITRATED PURSUANT TO THE FEDERAL ARBITRATION ACT (9 U.S.C. §1, ET SEQ.) AND SUBJECT TO THE PROCEDURES SET FORTH IN THIS ARTICLE 11.

SUCH DISPUTE SHALL BE SUBMITTED TO BINDING ARBITRATION BY AND PURSUANT TO THE RULES OF THE AMERICAN ARBITRATION ASSOCIATION ("AAA"), PURSUANT TO ITS CONSTRUCTION ARBITRATION PROGRAM, OR SUCH ALTERNATIVE AS MUTUALLY AGREED BY THE PARTIES. IF AAA IS NOT AVAILABLE AND BUYER AND SELLER ARE UNABLE TO AGREE ON ANOTHER ALTERNATIVE, THEN EITHER PARTY MAY, PURSUANT TO THE APPLICABLE PROVISIONS OF THE FEDERAL ARBITRATION ACT (9 U.S.C. § 1, ET SEQ.), APPLY TO A COURT OF COMPETENT JURISDICTION TO DESIGNATE AN ARBITRATION SERVICE PROVIDER, WHICH DESIGNATION SHALL BE BINDING UPON THE PARTIES. THE RULES AND PROCEDURES OF SUCH ALTERNATIVE ARBITRATION SERVICE IN EFFECT AT THE TIME THE REQUEST FOR ARBITRATION IS SUBMITTED SHALL BE FOLLOWED.

11.2 GENERAL ARBITRATION PROVISIONS.

11.2.1 THE MATTERS HEREIN INVOLVE AND CONCERN INTERSTATE COMMERCE AND ARE GOVERNED BY THE PROVISIONS OF THE FEDERAL ARBITRATION ACT (9 U.S.C. §1, ET SEQ.) NOW IN EFFECT AND AS THE SAME MAY FROM TIME TO TIME BE AMENDED, TO THE EXCLUSION OF ANY DIFFERENT OR INCONSISTENT STATE OR LOCAL LAW, ORDINANCE, REGULATION, OR JUDICIAL RULE. ACCORDINGLY, ANY AND ALL DISPUTES SHALL BE ARBITRATED – WHICH ARBITRATION SHALL BE MANDATORY AND BINDING – PURSUANT TO THE FEDERAL ARBITRATION ACT (9 U.S.C. § 1, ET SEQ.).

11.2.2 TO THE EXTENT THAT ANY STATE OR LOCAL LAW, ORDINANCE, REGULATION, OR JUDICIAL RULE SHALL BE INCONSISTENT WITH ANY PROVISION OF THE RULES OF THE ARBITRATION SERVICE UNDER WHICH THE ARBITRATION PROCEEDING SHALL BE CONDUCTED, THE LATTER RULES SHALL GOVERN THE CONDUCT OF THE PROCEEDING.

11.2.3 THIS ARTICLE 11 SHALL INURE TO THE BENEFIT OF, AND BE ENFORCEABLE BY, DECLARANT'S AFFILIATES, SUBCONTRACTORS, AGENTS, VENDORS, SUPPLIERS, DESIGN PROFESSIONALS, INSURERS AND ANY OTHER PERSON WHOM ASSOCIATION OR OWNER CONTENDS IS RESPONSIBLE FOR ANY

ALLEGED DEFECT IN OR TO THE PROPERTY OR ANY IMPROVEMENT OR APPURTENANCE THERETO.

11.2.4 IN THE EVENT ANY DISPUTE IS SUBMITTED TO ARBITRATION, EACH PARTY SHALL BEAR ITS OWN ATTORNEYS' FEES AND COSTS (INCLUDING EXPERT COSTS) FOR THE ARBITRATION, UNLESS THE ARBITRATOR ORDERS OTHERWISE.

11.2.5 THE ARBITRATOR SHALL BE AUTHORIZED TO PROVIDE ALL RECOGNIZED REMEDIES AVAILABLE IN LAW OR IN EQUITY FOR ANY CAUSE OF ACTION THAT IS THE BASIS OF THE ARBITRATION. THE DECISION OF THE ARBITRATOR SHALL BE FINAL AND BINDING. BUYER AND SELLER EXPRESSLY AGREE THAT AN APPLICATION TO CONFIRM, VACATE, MODIFY OR CORRECT AN AWARD RENDERED BY THE ARBITRATOR SHALL BE FILED IN ANY COURT OF COMPETENT JURISDICTION IN THE COUNTY IN WHICH THE PROPERTY IS LOCATED.

11.2.6 THE PARTICIPATION BY ANY PARTY IN ANY JUDICIAL PROCEEDING CONCERNING THIS ARTICLE 11 OR ANY MATTER ARBITRABLE HEREUNDER SHALL NOT BE ASSERTED OR ACCEPTED AS A REASON TO DELAY, TO REFUSE TO PARTICIPATE IN, OR TO REFUSE TO ENFORCE THIS ARTICLE 11. ATTORNEYS FEES AND COSTS SHALL BE BORNE PURSUANT TO SECTION 11.2.4

11.2.7 THE FEES TO INITIATE THE ARBITRATION SHALL BE ADVANCED BY SELLER AND SUBSEQUENT FEES AND COSTS OF THE ARBITRATION AND/OR THE ARBITRATOR SHALL BE BORNE EQUALLY BY THE PARTIES TO THE ARBITRATION; PROVIDED, HOWEVER, THAT THE FEES AND COSTS OF THE ARBITRATION AND/OR THE ARBITRATOR SHALL ULTIMATELY BE BORNE AS DETERMINED BY THE ARBITRATOR.

11.2.8 THE ARBITRATOR APPOINTED TO SERVE SHALL BE A NEUTRAL AND IMPARTIAL INDIVIDUAL.

11.2.9 THE VENUE OF THE ARBITRATION SHALL BE IN DAVIS COUNTY UNLESS THE PARTIES AGREE IN WRITING TO ANOTHER LOCATION.

11.2.10 IF ANY PROVISION OF THIS PARAGRAPH 10 SHALL BE DETERMINED TO BE UNENFORCEABLE OR TO HAVE BEEN WAIVED, THE REMAINING PROVISIONS SHALL BE DEEMED TO BE SEVERABLE THEREFROM AND ENFORCEABLE ACCORDING TO THEIR TERMS.

11.3 ALL PARTIES GOVERNED BY THIS DECLARATION ACKNOWLEDGE AND AGREE THAT THEY ARE WAIVING ANY RIGHTS TO HAVE THE DISPUTES DESCRIBED BY THIS ARTICLE 11 DECIDED IN A COURT OR BY A JURY TRIAL.

11.4 No Waiver. If any Owner, the Association, or the Declarant files a proceeding in any court to resolve any Dispute, such action shall not constitute a waiver of the right of such party or a bar to the right of any other party to seek arbitration of that or any other Dispute, and

the court shall, upon motion of any party to the proceeding, direct that such Dispute be arbitrated in accordance therewith.

11.5 Amendment Requires Consent of Declarant. Notwithstanding any other provision of this Declaration, this Article and its sections may not be amended except with the written consent of the Declarant.

12. INSURANCE.

12.1 Duty to Obtain Insurance: Types. The Association shall maintain, commencing not later than the time of the first conveyance of a Unit to a person other than Declarant, to the extent reasonably available and subject to reasonable deductibles:

12.1.1 Commercial General Liability Insurance. The Board shall cause to be obtained and maintained adequate commercial general liability insurance (including medical payments), with such limits not less than \$1,000,000 per occurrence and \$2,000,000 general aggregate, or such higher amounts as may be required by the Act and as may be considered acceptable to FNMA, insuring against liability for bodily injury, death and property damage arising out of or in connection with the use, ownership or maintenance of the Common Area.

12.1.2 Property Insurance. The Board shall also cause to be obtained and maintained property insurance on the Common Areas insuring against risks of direct physical loss commonly insured against, which insurance, after application of any deductibles, must not be less than 80 percent of the actual cash value of the insured property at the time the insurance is purchased and at each renewal date, exclusive of land, excavations, foundations and other items normally excluded from property policies.

12.1.3 Fidelity Bonds. Fidelity bond coverage which names the Association as an obligee must be obtained by or on behalf of the Association for any person or entity handling funds of the Association, including, but not limited to, officers, directors, trustees, employees and agents of the Association, whether or not such Persons are compensated for their services, in an amount not less than the estimated maximum of funds, including reserve funds, in the custody of the Association or the Manager, as the case may be, at any given time during the term of each bond. However, in no event may the aggregate amount of such bonds be less than the reserves and operating capital of the Association.

12.1.4 Directors and Officers Insurance. Directors and officers liability insurance in a coverage amount not less than \$1,000,000.

12.1.5 Insurance Required by FNMA, GNMA and FHLMC. The Association shall continuously maintain in effect such casualty, flood and liability insurance and fidelity bond coverage meeting the insurance and

fidelity bond requirements established by FNMA, GNMA and FHLMC, so long as any of which is a Mortgagee or Owner of a Unit within the Properties, except to the extent such coverage is not available or has been waived in writing by FNMA, GNMA and FHLMC, as applicable.

12.1.6 Other Insurance. In addition the Association may purchase such other insurance, as the Board may deem necessary, including but not limited to, errors and omissions, medical payments, liquor liability, hired automobile liability, building ordinance coverage, special event coverage, and umbrella or excess liability insurance, and fidelity bonds, and such other risks as shall customarily be covered with respect to projects similar in construction, location and use.

12.2 Other Requirements.

12.2.1 The deductible for all insurance policies shall be as determined by the Board of Directors.

12.2.2 Nothing contained in this provision should be interpreted as releasing the Owner or occupant from the duty to insure the Unit and other Improvements located thereon.

12.2.3 Insurance shall be maintained for the benefit of the Association, the Owners, and the Mortgagees, as their interests may appear as named insured, subject, however, to loss payment requirements as set forth herein.

12.2.4 Each insurance policy, if applicable, shall provide that each Owner is an insured person under the policy with respect to liability arising out of the Owner's interest in the Common Area or Membership in the Association.

12.3 Waiver of Claim Against Association. As to all policies of insurance maintained by or for the benefit of the Association and the Owners, the Association and the Owners hereby waive and release all claims against one another, the Board and Declarant, to the extent of the insurance proceeds available, whether or not the insurable damage or injury is caused by the negligence of or breach of any agreement by any of said Persons.

12.4 Right and Duty of Owners to Insure. Each Owner covenants and agrees with all other Owners and with the Association to carry property insurance for the full replacement cost of all insurable Improvements on his Unit, less a reasonable deductible. It is the responsibility of each Owner to provide insurance on his or her personal property. Nothing herein shall preclude any Owner from carrying any public liability insurance as he deems desirable to cover his individual liability for damage to person or property occurring upon his Unit. Such policies shall not adversely affect or diminish any liability under any insurance obtained by or on behalf of the Association. If any loss intended to be covered by insurance carried by or on behalf of the

Association shall occur and the proceeds payable thereunder shall be reduced by reason of insurance carried by any Owner, such Owner shall assign the proceeds of such insurance carried by him to the Association, to the extent of such reduction, for application by the Board to the same purposes as the reduced proceeds are to be applied.

12.5 Notice of Expiration Requirements. If available, each of the policies of insurance maintained by the Association shall contain a provision that said policy shall not be canceled, terminated, materially modified or allowed to expire by its term, without thirty (30) days prior written notice to the Board and Declarant, and to each Owner and Beneficiary, insurer and guarantor of a first Mortgage who has filed a written request with the carrier for such notice and every other Person in interest who requests such notice of the insurer. In addition, fidelity bonds shall provide that they may not be canceled or substantially modified without thirty (30) days prior written notice to any insurance trustee named pursuant to this Declaration and to each FNMA service who has filed a written request with the carrier for such notice. Notwithstanding the foregoing, any cancellation of insurance coverage for nonpayment of a premium shall require not less than ten (10) days prior written notice.

12.6 Insurance Premiums. Insurance premiums for any blanket insurance coverage obtained by the Association and any other insurance deemed necessary by the Board shall be a Common Expense to be included in the Annual Assessments levied by the Association and collected from the Owners.

12.7 Annual Insurance Review. The Board shall review the insurance carried by or on behalf of the Association at least annually, for the purpose of determining the amount of the coverage referred to in this Article. The Board may, but is not obligated to, obtain a current appraisal of the full replacement value of the Improvements on the Properties except for foundations and footings, without deduction for depreciation, from a qualified independent insurance appraiser, prior to each such annual review.

12.8 Required Waiver. All policies of physical damage and liability insurance shall provide, if reasonably possible, for waiver of the following rights, to the extent that the respective insurers would have the rights without such waivers:

12.10.1 subrogation of claims against the Owners and tenants of the Owners;

12.10.2 any defense based upon co-insurance;

12.10.3 any right of setoff, counterclaim, apportionment, proration or contribution by reason of other insurance not carried by the Association;

12.10.4 any invalidity, other adverse effect or defense on account of any breach of warranty or condition caused by any Owner or any tenant of any Owner, or arising from any act, neglect, or omission of

any Owner or any tenant of any Owner or their respective agents, contractors and employees;

12.10.5 notice of the assignment of any Owner of his interest in the insurance by virtue of a conveyance of any Unit; and

12.10.6 any right to require any assignment of any Mortgage to the insurer.

13. RESERVATION OF RIGHTS

13.1 Withdrawal of Property. During Development and Sale Period, the Declarant may amend this Declaration to remove any unimproved portion of the Community from the coverage of this Declaration, provided such withdrawal does not reduce the total number of Units then subject to the Declaration by more than 10%. "Unimproved" means that no permanent structure has yet been completed on the property. Such amendment shall not require the consent of any Person other than the Owner(s) of the property to be withdrawn, if not the Declarant. If the property is Common Area, the Association shall consent to such withdrawal.

13.2 Marketing and Sales Activities. Notwithstanding anything in the Governing Documents to the contrary, during the Development and Sale Period the Declarant and its designees or assigns may construct, use, and maintain upon portions of the Common Area and other property they own, such facilities and activities as, in the Declarant's opinion, may reasonably be required, convenient, or incidental to the construction or sale of Units. Such permitted facilities and activities shall include business offices, signs, flags (whether hung from flag poles or attached to a structure), model homes, sales offices, holding or sponsoring special events, and exterior lighting features or displays. In addition, if reasonably required, convenient, or incidental to construction or sales activities, the Declarant and its employees, agents, and designees may park vehicles in designated parking areas.

13.3 Right to Make Improvements, Replat. During the Development and Sale Period, the Declarant and its employees, agents, and designees shall have a right of access and use and an easement over and upon all of the Common Area for the purpose of making, construction, and installing improvements, including cellular towers, on the Common Area and to the Exhibit "B" property as it deems appropriate. In addition, during the Development and Sale Period, the Declarant may replat property that it or a Declarant Affiliate owns and convert Units it or a Declarant affiliate owns into Common Area.

13.4 Right to Approve Changes in the Community Standards. During the Development and Sale Period, no amendment to or modification of any Rules or Design Guidelines shall be effective without prior notice to and the written approval of the Declarant.

13.5 Additional Covenants and Restrictions. During the Development and Sale Period, no one other than the Declarant or a Declarant Affiliate may record any additional covenants or restrictions affecting any portion of the Community without the Declarant's written consent. Any instrument recorded without the required consent shall be void and of no force and effect.

13.6 Exclusive Rights to Use Name of Development. No Person shall use the name of the Community or any derivative of such name or in any logo or depiction associated with the Community in any printed or promotional material without the Declarant's prior written consent. However, Owners may use the name of the Community in printed or promotional matter where such term is used solely to specify that particular property is located within the Community, and the Association shall be entitled to use the word "Foxboro" in its name.

13.7 Community Systems. The Declarant reserves for itself, Declarant Affiliates, and its respective successors and assigns, a perpetual right and easement over all property in the Community to install and operate such Community Systems as the Declarant, in its discretion, deems appropriate to serve any portion of the Community. Such right shall include, without limitation, the Declarant's right to select and contract with companies licensed to provide telecommunications, cable television, and other Community Systems services in the region. The Declarant also has the right to charge individual users a reasonable fee not to exceed the maximum allowable charge for such service, as from time to time is defined by the laws, rules, and regulations of the relevant government authority, if applicable. Notwithstanding the above, there is no guarantee or representation that any particular Community System will be made available.

13.8 Easement to Inspect and Right to Correct. The Declarant reserves for itself and others it may designate the right, but not the obligation, to inspect, monitor, test, redesign, and correct any structure, improvement, or condition that may exist on any portion of the property within the Community, including Units, and a perpetual nonexclusive easement of access throughout the Community to the extent reasonably necessary to exercise such right. Except in an emergency, entry onto a Unit shall be only after reasonable notice to the Owner, and no entry into an enclosed structure shall be permitted without the Owner's consent. The person exercising this easement shall promptly repair, at such person's own expense, any damage he or she causes. Nothing in this paragraph shall relieve an Owner of the responsibility for the maintenance and repair of his or her Unit.

13.9 Right to Notice of Design or Construction Claims. No Person shall retain an expert for the purpose of inspecting the design or construction of any structures or improvements within the Community in connection with or in anticipation of any potential or pending claim, demand, or litigation involving such design or construction unless the Declarant and any builder involved in the design or construction have been first notified in writing and given an opportunity to meet with the owner of the property to discuss the owner's concerns and conduct their own inspection.

13.10 Development of Open Space. Plans for the Community identify or may identify certain areas as "Open Space." Declarant shall have the right, in its discretion, to determine appropriate uses for, or improvements that may be constructed on, such Open Space areas. In addition, for any Open Space owned by the City, the County, or an SSD, such entity shall have the right, with the approval of Declarant, to determine appropriate uses for, or improvements that may be constructed on such Open Space. Appropriate uses or improvements may include, without limitation, signage, walls, landscaping, conservation, drainage, parks, green areas, pathways, or cellular towers. Open Space areas may be owned and maintained by the Association, the City, the County, the SSD, or the Council.

13.11 Right to Use Common Area for Special Events. As long as Declarant or a Declarant Affiliate owns any property described in Exhibit "A" or Exhibit "B", Declarant may use the Common Area to sponsor special events for charitable, philanthropic, political, or marketing purposes, subject to the following conditions:

13.11.1 The availability of the facilities at the time requested;

13.11.2 Declarant shall pay all costs and expenses incurred and shall indemnify the Association against any loss or damage resulting from the special event;

13.11.3 Declarant shall return the facilities and personal property used in conjunction with the special event to the Association in the same condition as existed prior to the special events; and

13.11.4 Declarant shall have the right to assign its rights to charitable organizations or foundations selected by Declarant. Declarant's right to use the Common Area for special events shall be enforceable by injunction, by any other remedy in law or equity, and by the terms of this Declaration.

13.12 Right to Stormwater Runoff. Declarant reserves for itself and its designees and its assigns all rights to ground water, surface water, and stormwater runoff located within the Community, and each Owner agrees, by acceptance of a deed to a Unit, that Declarant shall retain all such rights. Such rights shall include the reservation of an easement over the Community for access, and for installation and maintenance of facilities and equipment to capture and transport such water, and runoff. All such water shall be available for use by Declarant, the Association, the Council, the City, and/or an SSD for irrigation, fire protection, and similar purposes, as such right of use may be designated by the Declarant from time to time. Declarant may establish programs for reclamation of stormwater runoff and wastewater for appropriate uses within or outside the Community and may require Owners and occupants of Units to participate in such programs to the extent reasonably practical. No Owner or occupant of a Unit shall have any right to be compensated for water claimed or reclaimed from his or her Unit. This Section may not be amended without Declarant's consent, and the rights created in this Section shall survive termination of this Declaration.

13.13 Right to Transfer or Assign the Declarant's Rights. Any or all of the Declarant's special rights and obligations set forth in this Declaration or the Bylaws may be transferred in whole or in part to other Persons. However, such a transfer shall not reduce an obligation or enlarge a right beyond that which Declarant has under this Declaration or the Bylaws. No such transfer or assignment shall be effective unless it is in a recorded instrument the Declarant signs. The foregoing sentence shall not preclude the Declarant from permitting other Persons to exercise, on a one-time or limited basis, any right reserved to the Declarant in this Declaration where the Declarant does not intend to transfer such right in its entirety. In such case, it shall not be necessary to record any written assignment unless necessary to evidence the Declarant's consent to such exercise.

13.14 Snow Storage, Snow Removal and Driveway and Sidewalk Maintenance Easement. The Association hereby reserves a snow storage easement for itself and its agents

across the front portion of the front yards (and side yards of each corner Unit) and both sides of each driveway and sidewalk of each Unit in the Community as may be reasonably required to store snow in the normal course of street snow removal. The Association also hereby reserves an easement for itself and its agents over and across all exterior concrete surfaces of each Unit that are outside of the separately fenced "back yard" portion of each Unit for the removal of snow and the maintenance of concrete, asphalt and other surface materials (the "Association Snow Removal and Driveway and Sidewalk Maintenance Area"). The Association shall be responsible for removal of snow and the maintenance of concrete, asphalt and other surface materials within the Association Snow Removal and Driveway and Sidewalk Maintenance Area; provided, however, that the Association shall have no responsibility or obligation to remove snow from the front porch of a Unit.

13.15 Landscape Easement. The Association hereby reserves a landscape installation, maintenance, replacement and repair easement for itself and its agents over and across all landscaped portions of each Unit for the purposes of installing, maintaining, replacing and repairing landscaping and related improvements such as irrigation systems for each Unit within the Community. The Association shall install, maintain, replace and repair all landscaping on each Unit that is outside of the separately fenced "back yard" portion of each Unit (the "Association Maintained Landscape Area"). Without the prior written consent of the Association, which may be granted or withheld for any reason or no reason, no Person shall install, maintain, repair, replace or otherwise alter any landscaping or other improvements within the Association Maintained Landscape Area of a Unit. The Association shall have no responsibility or obligation to landscape, maintain or repair any landscaping or improvements within the separately fenced "back yard" portion of each Unit, but the Association shall have the right to perform such actions in its sole discretion if an Owner fails to install or maintain "Back Yard Landscaping" (as such term is defined in Section 7.4 above).

13.16 Surface Water Drainage and Grading Easement. Exclusive of the portion of each Lot that is occupied by a Residence, the Association hereby reserves an easement allowing, but not requiring, the Association and its agents to enter onto each Lot for the purpose of installing, creating, grading, re-grading, maintaining, repairing, correcting, altering and restoring surface water drainage flows and surface water drainage systems. No Person shall alter, obstruct or redirect the final grade of a Lot or the drainage of surface water from a Lot without the prior written consent of the Association.

13.17 Termination of Rights. The rights contained in this Article shall not terminate until the earlier of (a) termination of the Development and Sale Period; or (b) the Declarant's recording of a written statement that all sales activity has ceased.

14. RESERVATION OF ADDITIONAL RIGHTS

14.1 Declarant's Reserved Rights. Any other provision herein notwithstanding, Declarant reserves, in its sole discretion, the following developmental rights and other special Declarant's rights, on the terms and conditions and subject to the expiration deadlines, if any, set forth below:

14.1.1 Right to Complete Improvements and Construction Easement. Declarant reserves, for a period terminating on the fifteenth (15th) anniversary of Recordation of this Declaration, the right, in Declarant's sole discretion, to complete the construction of the Improvements in the Community and an easement over the Community for such purpose; provided, however, that if Declarant still owns any property in the Community on such fifteenth (15th) anniversary date, then such rights and reservations shall continue for one additional successive period of sixty (60) months thereafter. Any damage to any Unit or the Common Areas caused by Declarant or its agents in the use or exercise of said right and/or easement shall be repaired by and at the expense of Declarant.

14.1.2 Exercise of Developmental Rights. Declarant reserves the right to add or withdraw real property from the Community.

14.1.3 Offices, Model Homes and Promotional Signs. Declarant reserves the right to maintain signs, sales and management offices, and models in any Unit owned or leased by Declarant in the Community, and signs anywhere on the Common Areas, for so long as Declarant owns or leases any Unit.

14.2 Appointment and Removal of Directors. Declarant reserves the right to appoint and remove the members of the Board as set forth in this Declaration.

14.3 Amendments. Declarant reserves the right to amend this Declaration from time to time, as set forth in detail, above, during the time periods set forth therein.

14.4 Easements. Declarant has reserved certain easements, and related rights, as set forth in this Declaration.

14.5 Other Rights. Declarant reserves all other rights, powers, and authority of Declarant set forth in this Declaration.

14.6 Restriction of Traffic. Declarant reserves the right, until the Close of Escrow of the last Unit in the Community, to unilaterally restrict and/or re-route all pedestrian and vehicular traffic within the Community, in Declarant's sole discretion, to accommodate Declarant's construction activities and sales and marketing activities; provided that no Unit shall be deprived of access to a dedicated street adjacent to the Community.

14.7 Exemption of Declarant. Notwithstanding anything to the contrary in this Declaration, the following shall apply:

14.7.1 Nothing in this Declaration shall limit, and no Owner or the Association shall do anything to interfere with, the right of Declarant to complete excavation and grading and the construction of Improvements to and on any portion of the Community, or to alter the foregoing and Declarant's construction plans and designs, or to construct such additional Improvements as Declarant deems advisable in the course of development of the Community, for so long as any Unit owned by Declarant remains unsold.

14.7.2 This Declaration shall in no way limit the right of Declarant to grant additional licenses, easements, reservations and rights-of-way to itself, to governmental or public authorities (including without limitation public utility companies), or to others, as from time to time may be reasonably necessary to the proper development and disposal of Units; provided, however, that if FHA or VA approval is sought by Declarant, then the FHA and/or the VA shall have the right to approve any such grants as provided herein.

14.7.3 Prospective purchasers and Declarant shall have the right to use all and any portion of the Common Areas for access to the sales facilities of Declarant and for placement of Declarant's signs.

14.7.4 Declarant may use any structures owned or leased by Declarant, as model home complexes or real estate sales or management offices, subject to the time limitations set forth herein, after which time, Declarant shall restore the Improvement to the condition necessary for the issuance of a final certificate of occupancy by the appropriate governmental entity.

14.7.5 All or any portion of the rights of Declarant in this Declaration may be assigned by Declarant to any successor in interest, by an express and written Recorded assignment which specifies the rights of Declarant so assigned.

14.7.6 The prior written approval (which shall not be unreasonably withheld) of Declarant, as developer of the Community, shall be required before any amendment to the Declaration affecting Declarant's rights or interests (including, without limitation, this Article) can be effective.

15. ANNEXATION/EXPANSION OF THE COMMUNITY

15.1 Expansion by Declarant. From time to time, the Declarant may submit to the terms of this Declaration all or any portion of the Annexable Property by recording a Supplement describing the additional property to be submitted. The Declarant may record such a Supplement without the consent of any Person except the owner of such property, if not the Declarant.

15.1.1 The Declarant's right to expand the Community under this Section expires when all property described in **Exhibit "B"** has been submitted to this Declaration or 30 years after this Declaration is recorded, whichever is earlier. Until then, the Declarant may transfer or assign this right to a Declarant Affiliate or any Person who is the developer of at least a portion of the real property described in **Exhibit "A"** or **Exhibit "B"**. Any such transfer shall be described in a recorded instrument executed by the Declarant.

15.1.2 Nothing in this Declaration shall require the Declarant or any successor to submit additional property to this Declaration or to develop any of the property described in **Exhibit "B"** in any manner whatsoever.

15.2 Expansion by the Association. If approved by the Master Association in writing, the Association also may submit additional property to this Declaration by recording a Supplement describing the additional property. Any Supplement which the Association records

must be approved by the Owners of more than 50% of the total votes in the Association at a meeting duly called for such purpose and by the owner of the property to be submitted. In addition, during the Development and Sale Period, the Declarant's consent is required. The Association's President and Secretary, the owner of the property, and the Declarant, if the Declarant's consent is required, shall sign the Supplement.

15.3 Additional Covenants and Easements. Any Supplement that the Declarant records may impose additional covenants and easements on the property described in such Supplement, such as covenants obligating the Association to maintain and insure such property and authorizing the Association to recover its costs through Special Assessments. Such provisions may be included in a Supplement submitting new property to this Declaration or may be set forth in a separate Supplement applicable to property previously submitted to this Declaration. If someone other than the Declarant owns the property, then the Supplement must be signed by such owner evidencing such owner's consent. Any Supplement may add to, create exceptions to, or otherwise modify the terms of this Declaration as it applies to the property described in the Supplement, in order to reflect the different character and intended use of such property.

15.4 Effect of Filing a Supplement. A Supplement shall be effective upon recording unless otherwise specified in the Supplement. On the effective date of the Supplement, any additional property made subject to this Declaration shall be assigned voting rights in the Association and assessment liability in accordance with the provisions of this Declaration. Notwithstanding anything to the contrary herein, the Master Association must give its prior written approval to any Supplement that is adopted by the Association. If a Supplement is not approved, in advance and in writing, by the Master Association, then said Supplement shall be deemed void and of no force and effect.

15.5 Unit Conversions. In the event that any development or building now or hereafter constructed within the Community is used or operated for non-residential purposes, such as retail, office, or other commercial uses, and such development is later converted or operated for residential purposes, the owner of such property may submit such property to the provisions of this Declaration by recording a Supplement describing the property and specifically submitting it to the terms of this Declaration. Such Supplement Declaration shall not require the consent of the Association, but shall require the signature of an officer of the Association acknowledging it. In addition, the Declarant's prior written consent shall be necessary so long as the Declarant or a Declarant Affiliate owns any property described in **Exhibit "A"** or **Exhibit "B"**.

15.6 Withdrawal. Notwithstanding any other provisions of this Declaration, Declarant reserves the right to amend this Declaration so long as it has the right to expand/annex additional property pursuant to this Article, for the purpose of removing property then owned by the Declarant or its assignees from coverage of this Declaration, to the extent originally included in error or as a result of any changes in Declarant's plans for the Property, provided such withdrawal is not unequivocally contrary to the overall scheme of development for the Property.

15.7 No Obligation to Expand. Nothing herein shall constitute a representation, warranty or covenant that Declarant, any successors or assigns of Declarant, or any other Person will subject any additional property to the provisions of this Declaration, nor shall Declarant, any

successors or assigns of Declarant, or any other person be obligated so to do, and Declarant may, by recorded instrument executed by Declarant, waive their rights so to do, in whole or in part, at any time or from time to time.

15.8 FHA/VA Approval. In the event that, and for so long as, the FHA or the VA is insuring or guaranteeing loans or has agreed to insure or guarantee loans on any portion of the Annexable Property with respect to the initial sale by Declarant or builder to the initial purchaser of any Residence, then a condition precedent to any annexation of any property other than the Annexable Property shall be written confirmation by the FHA or the VA that the annexation is in accordance with the development plan submitted to and approved by the FHA or the VA; provided, however, that such written confirmation shall not be a condition precedent if at such time the FHA or the VA has ceased to regularly require or issue such written confirmations.

16. MISCELLANEOUS

16.1 Interpretation of the Covenants. Except for judicial construction, the Association, by its Board, shall have the exclusive right to construe and interpret the provisions of this Declaration. In the absence of any adjudication to the contrary by a court of competent jurisdiction, the Association's construction or interpretation of the provisions hereof shall be final, conclusive, and binding as to all persons and property benefited or bound by the covenants and provisions hereof.

16.2 Severability. The provisions hereof are independent and severable, and a determination of invalidity or partial invalidity or unenforceability of any one provision or portion hereof by a court of competent jurisdiction does not affect the validity or enforceability of any other provision hereof.

16.3 Association Act. It is the intent of this Declarant that this Declaration and the Community shall be in all respects consistent with, and not in violation of, applicable provisions of the Association Act, as may be amended from time to time. In the event any provision of this Declaration is found to irreconcilably conflict with or violate any such applicable provision of the Association Act, such offending Declaration provision shall be automatically deemed modified or severed herefrom, to the minimum extent necessary to remove the irreconcilable conflict with or violation of the applicable provision of the Association Act. Notwithstanding the foregoing or any other provision set forth herein, if any provision of the Association Act should, in the future, be removed or made less burdensome (in Declarant's sole judgment), then the future change in such provision shall be deemed to have been automatically made and reflected in this Declaration as of the effective date of such statutory change.

16.4 Construction of This Declaration. This Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development of a residential community, and any violation of this Declaration is a nuisance. The Article and Section headings have been inserted for convenience only, and may not be considered or referred to in resolving questions of interpretation or construction. As used herein, the singular includes the plural and the plural the singular; and the masculine, feminine and neuter each include the other, unless the context dictates otherwise.

16.5 No Public Right or Dedication. Nothing contained in this Declaration constitutes a gift or dedication of all or any part of the Properties to the public, or for any public use.

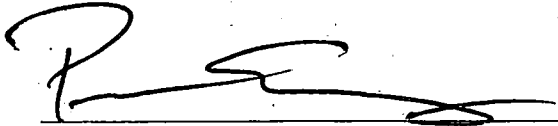
16.6 Constructive Notice and Acceptance. Every person who owns, occupies or acquires any right, title, estate or interest in or to any Unit or other portion of the Properties does hereby consent and agree, and shall be conclusively deemed to have consented and agreed, to every limitation, restriction, easement, reservation, condition and covenant contained herein, whether or not any reference to these restrictions is contained in the instrument by which such person acquired an interest in the Properties or any portion thereof.

16.7 Business of Declarant. Except to the extent expressly provided herein, no provision of this Declaration shall be applicable to limit or prohibit any act of Declarant, its agents or representatives in connection with or incidental to Declarant's improvement, development, and sales and marketing activities regarding the Properties, so long as any Unit therein owned by Declarant remains unsold.

[Signatures to follow on next page.]

IN WITNESS WHEREOF, Declarant has executed the instrument this 16th day of April, 2013.

FOXBORO ESTATES, LLC,
a Utah limited liability company



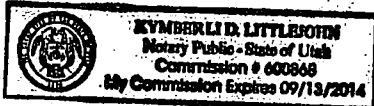
Peter Evans

President

STATE OF UTAH)
):ss
County of Davis)

On the 16th day of April, 2013, personally appeared before me Peter Evans who being by me duly sworn did say that he, Peter Evans is the President of said Foxboro Estates, LLC, a Utah limited liability company, that executed the within instrument and did acknowledge to me that the said corporation executed the same.

Kyberli D Littlejohn
Notary Public



Residing at: North Salt Lake, Davis County, Utah

My Commission Expires: 9/13/2014

(seal)

EXHIBIT "A"

ORIGINAL PROPERTY

The Original Property is described as follows:

Lots 1 through 80, inclusive, and all areas designated as "Common Area" and "Limited Common Area" as shown on the final plat of Foxboro North Stonehaven West P.U.D. Recorded as Entry number 2681531 on August 22, 2012 in Book 5590, Page 16 in the office of the County Recorder of Davis County, Utah;

and

Lots 81 through 87, inclusive, and Parcel A, C, and D, inclusive, as shown on the final plat of Foxboro North Stonehaven West Plat 2 P.U.D., Recorded as Entry number 2719294 on February 8, 2013 in Book 5703, Page 1170, in the office of the County Recorder of Davis County, Utah.

[NOTE: DECLARANT HAS SPECIFICALLY RESERVED THE RIGHT FROM TIME TO TIME TO UNILATERALLY SUPPLEMENT OR MODIFY OF RECORD ANY AND ALL OF THE FORGOING LEGAL DESCRIPTIONS]

EXHIBIT "B"

ANNEXABLE PROPERTY

The Annexable Property is described as follows:

A parcel of land located in the Southeast Quarter of Section 34, Township 2 North, Range 1 West, Salt Lake Base and Meridian, Davis County, Utah described as follows:

Beginning at a point that is on the south line of Section 34, Township 2 North, Range 1 West, Salt Lake Base and Meridian, said point lies South 89°50'51" West along the section line 1,142.62 feet from the Southeast Corner of said Section 34; and running thence South 89°50'51" West along the section line 1,291.67 feet to the east line of Fox Hollow Drive, said point being on the east line of Foxboro North Plat 3 as recorded in the office of the Davis County Recorder in Book 4174 at Page 642; thence along said east lines the following Seven (7) Courses: 1) North 00°09'09" West 34.35 feet, 2) northeasterly along the arc of a 167.00 foot radius tangent curve to the right, the center of which bears North 89°50'51" East, through a central angle of 46°50'02", a distance of 136.51 feet, 3) North 46°40'52" East 41.51 feet, 4) northeasterly along the arc of a 233.00 foot radius tangent curve to the left, the center of which bears North 43°19'08" West, through a central angle of 40°52'18", a distance of 166.21 feet, 5) northeasterly along the arc of a 22.00 foot radius reverse curve to the right, the center of which bears South 84°11'26" East, through a central angle of 50°46'39", a distance of 19.50 feet, 6) northeasterly along the arc of a 75.50 foot radius reverse curve to the left, the center of which bears North 33°24'47" West, through a central angle of 18°06'30", a distance of 23.86 feet and 7) northeasterly along the arc of a 37.00 foot radius reverse curve to the right, the center of which bears South 51°31'17" East, through a central angle of 51°31'17", a distance of 33.27 feet to the south line of 900 North Street, said point being the south line of Foxboro North Plat 11 as recorded in the office of the Davis County Recorder in Book 5557 at Page 510; thence along said south line and the south line of Foxboro North Plat 16 as recorded in the office of the Davis County Recorder in Book 5625 at Page 1891, East 1,520.03 feet to the west line of Cutler Drive; thence along the east line of said Plat 16 (and the west line of Cutler Drive) the following Four (4) Courses: 1) southeasterly along the arc of a 22.00 foot radius tangent curve to the right, the center of which bears South 00°00'00" East, through a central angle of 55°39'36", a distance of 21.37 feet, 2) southeasterly along the arc of a 75.50 foot radius reverse curve to the left, the center of which bears North 55°39'36" East, through a central angle of 14°11'00", a distance of 18.69 feet, 3) southeasterly along the arc of a 37.00 foot radius reverse curve to the right, the center of which bears South 41°28'36" West, through a central angle of 47°53'49", a distance of 30.93 feet and 4) South 00°37'35" East 127.93 feet to the north line of the Thurston parcel; thence along said north line South 89°51'46" West 483.98 feet to the west line of said Thurston parcel; thence along said west line South 00°08'14" East 193.47 feet, to the point of beginning.

[NOTE: DECLARANT HAS SPECIFICALLY RESERVED THE RIGHT FROM TIME TO TIME TO UNILATERALLY SUPPLEMENT OR MODIFY OF RECORD ANY AND ALL OF THE FORGOING LEGAL DESCRIPTIONS]

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