

When recorded return to:

Chalets at Ski Lake Owners Association, Inc.  
5393 East 3850 North  
Eden, Utah 84310



\*W2818236\*

E# 2818236 PG 1 OF 68  
LEANN H KILTS, WEBER COUNTY RECORDER  
30-SEP-16 400 PM FEE \$231.00 DEP JKC  
REC FOR: CHALETS AT SKI LAKE HOA

**FOURTH AMENDED AND RESTATED  
DECLARATION  
OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
THE CHALETS AT SKI LAKE**

Table of Contents

Article 1 – DEFINITIONS.....	5
1.1 “Architectural Control Committee.....	5
1.2 “Additional Charges”.....	5
1.3 “Annual Budget”.....	5
1.4 “Articles” or “Articles of Incorporation”.....	5
1.5 “Assessments”.....	5
1.6 “Association”.....	5
1.7 “Board” or “Board of Trustees”.....	5
1.8 “Bylaws”.....	5
1.9 “Common Areas”.....	5
1.10 “Common Area Improvements”.....	6
1.11 “Common Expenses”.....	6
1.12 “Common Expense Fund”.....	6
1.13 “Community Act”.....	7
1.14 “County”.....	7
1.15 “Declarant”.....	7
1.16 “Declaration”.....	7
1.17 “Dwelling”.....	7
1.18 “Expandable Area”.....	7
1.19 “Governing Documents”.....	7
1.20 “Improvements”.....	7
1.21 “Lot”.....	7
1.22 “Lot Owner”.....	7
1.23 “Majority of Owners”.....	7
1.24 “Member”.....	7
1.25 “Mortgage”.....	8
1.26 “Mortgagee”.....	8
1.27 “Nonprofit Corporation Act”.....	8
1.28 “Owner”.....	8
1.29 “Person”.....	8
1.30 “Plat”.....	8
1.31 “Project”.....	8
1.32 “Property”.....	8
1.33 “Recorder’s Office”.....	8
1.34 “Reserve Fund”.....	8
1.35 “Residence”.....	8
1.36 “Rules and Regulations”.....	9
1.37 “Subdivision”.....	9
1.38 “Subdivision Improvements”.....	9
1.39 “Supplemental Declaration”.....	9

Article 2 – DESCRIPTION OF PROJECT ..... 9

- 2.1 Project / Community ..... 9
- 2.2 Association ..... 9
- 2.3 No Cooperative or Condominiums ..... 9
- 2.4 Right to Expand Project ..... 9
- 2.5 Description and Location ..... 9
- 2.6 Limited Common Area / Common Area ..... 9
- 2.7 No Restrictions on Alienation ..... 10
- 2.8 Appointment of Trustee ..... 10

Article 3 – OWNER’S ASSOCIATION, MEMBERSHIP & VOTING ..... 10

- 3.1 Form of Association ..... 10
- 3.2 Membership ..... 10
- 3.3 Voting ..... 10
- 3.4 Association Bylaws ..... 11

Article 4 – BOARD OF TRUSTEES ..... 13

- 4.1 Board Purpose ..... 13
- 4.2 Board Approvals ..... 13
- 4.3 Board Authority ..... 13
- 4.4 Indemnification of Board ..... 14
- 4.5 Elections ..... 14

Article 5 – ARCHITECTURAL CONTROL COMMITTEE ..... 15

Article 6 – ARCHITECTURAL CONTROL COMMITTEE APPROVAL ..... 15

Article 7 – DWELLING CONSTRUCTION AND RESTRICTIONS ..... 17

- 7.1 Architectural Requirements ..... 17
- 7.2 Construction Requirements ..... 19

Article 8 – RESIDENTIAL HOMESITES ..... 21

Article 9 – SQUARE FOOTAGE REQUIREMENTS ..... 21

Article 10 – BUILDING AND LANDSCAPING TIME RESTRICTIONS ..... 22

Article 11 – USE RESTRICTIONS .....	23
11.1 No Mining, Business or Commercial Activities .....	23
11.2 Signs .....	23
11.3 Completion Required Before Occupancy .....	24
11.4 Animals .....	24
11.5 Double Lot Dwellings .....	24
11.6 No Re-Subdivision of Lots .....	25
11.7 Maintenance of Lots .....	25
11.8 No Noxious or Offensive Activity .....	25
11.9 No Hazardous Activity .....	25
11.10 Trash .....	25
11.11 Lighting Restrictions .....	25
11.12 Sewer Connection Required .....	26
11.13 Propane .....	26
11.14 Drainage .....	26
11.15 Clotheslines Prohibited .....	26
11.16 No Temporary Structures .....	26
11.17 Storage Sheds .....	26
11.18 Kennels .....	26
11.19 RVs, Campers, Boats, Trailers and Commercial Trucks .....	26
11.20 Motor Vehicles Restricted to Streets .....	26
11.21 No Unsightliness .....	27
11.22 No Fill-Dirt or Debris .....	27
11.23 Communication Devices .....	27
11.24 No Transient Lodging Uses .....	28
11.25 Effect on Insurance .....	28
11.26 Board Rules / Fines .....	28
Article 12 – LANDSCAPING AND WATERING .....	30
12.1 Landscaping .....	30
12.2 Irrigation/Sprinkler System .....	31
12.3 Outside Watering .....	31
12.4 Culinary Water .....	31
Article 13 – COMMON AREAS .....	31
13.1 Generally .....	31
13.2 Conveyance by Declarant .....	31
13.3 Maintenance by Association .....	31
13.4 Repair and Reconstruction .....	31
13.5 Damage and Destruction .....	32
13.6 Disbursement of Proceeds .....	32
13.7 Condemnation .....	32
Article 14 – ASSESSMENTS .....	33

Article 15 – DATE OF COMMENCEMENT OF ASSESSMENTS .....	34
Article 16 – COMPUTATION OF BASE ASSESSMENTS .....	34
Article 17 – SPECIAL ASSESSMENTS .....	35
Article 18 – PAYMENT OF BASE ASSESSMENTS UPON SALE OF LOT .....	35
Article 19 – LIENS AND APPOINTMENT OF TRUSTEE .....	36
Article 20 – RESERVE FUND .....	38
Article 21 – INSURANCE .....	39
Article 22 – BOUNDS .....	41
Article 23 – SUBORDINATION OF THE LIEN TO INSTITUTIONAL FIRST AND SECOND MORTGAGES .....	41
Article 24 – EXPANSION / REDUCTION .....	42
Article 25 – CERTAIN EXCEPTIONS FOR DECLARANT ACTIVITIES .....	42
Article 26 – AMENDMENTS TO DECLARATION .....	43
Article 27 – RULE-MAKING .....	43
Article 28 – ENFORCEMENT .....	43
Article 29 – INDEMNIFICATION .....	44
Article 30 – EASEMENTS FOR ENCROACHMENTS .....	44
Article 31 – SEVERABILITY .....	44
Article 32 – CONFLICTING PROVISIONS .....	44
Article 33 – LITIGATION ..	45
Article 34 – SECURITY .....	45

FOURTH AMENDED AND RESTATED  
DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR THE CHALETS AT SKI LAKE

THIS FOURTH AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR THE CHALETS AT SKI LAKE ("**Declaration**") is made and executed as of September \_\_\_\_, 2016 by Valley Enterprise Investment Company, LLC, a Utah limited liability company ("**Declarant**") for the purpose of governing the common affairs of the Association's members, protect property values and enforce the covenants, conditions, restrictions and rules of the Association.

**RECITALS**

- A. On April 13, 2005, Ronald J. Catanzaro, in his capacity as President of Ski Lake Corporation, a Utah corporation ("**Ski Lake Corp**") executed that certain plat map entitled "The Chalets at Ski Lake Phase 1" which was recorded in the Weber County Recorder's Office on April 20, 2005 in Book 261 at Page 13 as Entry No. 2098060 (the "**Phase 1 Map**").
- B. On April 13, 2005, Jeff Catanzaro, purportedly in his capacity as Secretary/Treasurer of The Chalets at Ski Lake and Chalet Ridge at Ski Lake Home Owners' Association (the "**Initial Association**") executed that certain document entitled "Bylaws of The Chalets at Ski Lake and Chalet Ridge at Ski Lake Home Owners' Association" which was recorded in the Weber County Recorder's Office on April 20, 2005 as Entry No. 2098061 (the "**Initial Association Bylaws**").
- C. On or about April 13, 2005, Ski Lake Corp made and executed that certain document entitled "Declaration of Covenants, Conditions and Restrictions and Reservation of Easements for the Chalets at Ski Lake and Chalet Ridge at Ski Lake" which was recorded in the Weber County Recorder's Office on April 20, 2005 as Entry No. 2098062 (the "**Original Declaration**").
- D. On April 13, 2005, Ronald J. Catanzaro, purportedly in his capacity as the Incorporator and Registered Agent of the Initial Association executed that certain document entitled "Articles of Incorporation of The Chalets at Ski Lake and Chalet Ridge at Ski Lake Home Owners' Association" which was recorded in the Weber County Recorder's Office on April 20, 2005 as Entry No. 2098063 (the "**Initial Association Articles**").
- E. Despite recordation of the Initial Association Bylaws and the Initial Association Articles in the Weber County Recorder's Office, the Initial Association was never legally formed because the Initial Association Articles were never recorded with the Utah Department of Commerce. As such, the Initial Association never legally existed and has never held nor exercised any authority whatsoever over the Community or any portion of the Property.

- F. On August 18, 2005, Ronald J. Catanzaro, in his capacity as President of Ski Lake Corp executed that certain plat map entitled "The Chalets at Ski Lake Phase 2" which was recorded in the Weber County Recorder's Office on August 18, 2005 in Book 62 at Page 34 as Entry No. 2123449 (the "**Phase 2 Map**").
- G. On or about November 1, 2005, Ski Lake Corp made and executed that certain document entitled "Amendment to Declaration of Covenants, Conditions and Restrictions and Reservation of Easements for The Chalets at Ski Lake and Chalet Ridge at Ski Lake" which was recorded in the Weber County Recorder's Office on November 8, 2005 as Entry No. 2140907 (the "**First Amendment to Original Declaration**").
- H. On December 2, 2005, Ronald J. Catanzaro, in his capacity as President of Ski Lake Corp executed that certain plat map entitled "The Chalets at Ski Lake Phase 3" which was recorded in the Weber County Recorder's Office on December 15, 2005 in Book 63 at Page 2 as Entry No. 2148790 (the "**Phase 3 Map**").
- I. On or about April 10, 2006, Ski Lake Corp made and executed that certain document entitled "Second Amendment to Declaration of Covenants, Conditions and Restrictions and Reservation of Easements for the Chalets at Ski Lake and Chalet Ridge at Ski Lake" which was recorded in the Weber County Recorder's Office on April 10, 2006 as Entry No. 2172096 (the "**Second Amendment to Original Declaration**").
- J. On February 12, 2007, Ronald J. Catanzaro, in his capacity as President of Ski Lake Corp executed that certain plat map entitled "The Chalets at Ski Lake Phase 4" which was recorded in the Weber County Recorder's Office on February 12, 2007 in Book 65 at Page 55 as Entry No. 2241559 (the "**Phase 4 Map**").
- K. On January 23, 2012, Ray Bowden, in his capacity as Manager and Authorized Agent of the Declarant executed that certain plat map entitled "The Chalets at Ski Lake Phase 5" which was recorded in the Weber County Recorder's Office on January 31, 2012 in Book 72 at Page 59 as Entry No. 2560424 (the "**Phase 5 Map**").
- L. On February 7, 2012, Declarant executed that certain document entitled "Third Amended Declaration of Covenants, Conditions and Restrictions and Reservation of Easements for The Chalets at Ski Lake" which was recorded in the Weber County Recorder's Office on February 7, 2012 as Entry No. 2561706 (the "**Third Amended Declaration**"). The title of the Third Amended Declaration was essentially erroneous since a second amended Declaration was never adopted or recorded.
- M. On February 2, 2012, Melven E. Smith, in his capacity as the Incorporator of the Association executed that certain document entitled "Articles of Incorporation of The Chalets at Ski Lake Owners Association" which was received by, and recorded with, the Utah Division of Corporations and Commercial Code of the Utah Department of Commerce on February 14, 2012 (the "**Articles**"). The Articles legally formed that certain Utah nonprofit corporation known as "Chalets at Ski Lake Owners Association" (the "**Association**").

- N. On March 2, 2012, the Third Amended Declaration was re-recorded in the Weber County Recorder's Office as Entry No. 2565002 in order to include, as Exhibit A, the Association's bylaws, which were omitted from the initial recording of the Third Amended Declaration. Unfortunately, the bylaws that were attached to such re-recorded document were the Initial Association Bylaws which (as noted under Recital E, above) refer to the Initial Association (which never legally existed) instead of properly referring to the Chalets At Ski Lake Owners Association.
- O. On April 30, 2013, Ray Bowden, in his capacity as Manager and Authorized Agent of the Declarant executed that certain plat map entitled "The Chalets at Ski Lake Phase 6" which was recorded in the Weber County Recorder's Office on May 7, 2013 in Book 74 at Page 1 as Entry No. 2634165 (the "**Phase 6 Map**").
- P. On July 29, 2014, Ray Bowden, in his capacity as Manager and Authorized Agent of the Declarant executed that certain plat map entitled "The Chalets at Ski Lake Phase 7" which was recorded in the Weber County Recorder's Office on September 9, 2014 in Book 76 at Page 26 as Entry No. 2701785 (the "**Phase 7 Map**").
- Q. On August 19, 2013, Declarant executed that certain document entitled "First Amendment to the Third Amended Declaration of Covenants, Conditions and Restrictions and Reservation of Easements for The Chalets at Ski Lake" which was recorded in the Weber County Recorder's Office on August 19, 2013 as Entry No. 2651381 (the "**First Amendment to Third Amended Declaration**").
- R. On October 26, 2015, Ray Bowden, in his capacity as Manager and Authorized Agent of the Declarant executed that certain plat map entitled "The Chalets at Ski Lake Phase 8" which was recorded in the Weber County Recorder's Office on November 4, 2015 in Book 78 at Page 37 as Entry No. 2764171 (the "**Phase 8 Map**").
- S. On November 17, 2015, Declarant executed that certain document entitled "Second Amendment to the Third Amended Declaration of Covenants, Conditions and Restrictions and Reservation of Easements for The Chalets at Ski Lake" which was recorded in the Weber County Recorder's Office on November 18, 2015 as Entry No. 2766135 (the "**Second Amendment to Third Amended Declaration**").
- T. Declarant desires to adopt and record this Declaration and the attached Bylaws in order to (i) clarify the covenants, conditions and restrictions that apply to the Community, (ii) formally establish the applicable Association bylaws, (iii) incorporate provisions that have been recently revised or added to the Utah Community Association Act (Utah Code Section 57-8a-101 et. seq.) (the "**Community Act**"), and (iv) eliminate any confusion that may be caused by any declarations or bylaws, and any amendments thereto, that have previously been recorded against the Property or in connection with the Community.
- U. Accordingly, this Declaration and the attached Bylaws shall completely replace and supersede, and restate in their entirety: (i) the Original Declaration, (ii) the First Amendment to Original Declaration, (iii) the Second Amendment to Original Declaration,



(iv) the Third Amended Declaration, (v) the First Amendment to Third Amended Declaration, (vi) the Second Amendment to Third Amended Declaration, (vii) the Initial Association Bylaws and (viii) any other declarations or bylaws, and any amendments or supplements to any such other declarations or bylaws, that may have been recorded or enforced against the Property (or any portion thereof) prior to the date this Declaration is recorded, and (ix) any similar recorded or unrecorded documents that may have been enforced against the Community or the Property prior to the date this Declaration is recorded.

- V. Pursuant to Articles 5.1, 6.1, and 41.1 of the Third Amended Declaration, and following the delivery of written notification to the Owners as required under Section 41.1 of the Third Amended Declaration, the Declarant, possessing all requisite authority, hereby adopts and records this Declaration.
- W. This Declaration and the attached Bylaws shall serve as governing documents for that certain residential subdivision/community known as "The Chalets at Ski Lake" (the "**Community**") which is administered and managed by the Association.
- X. This Declaration and the attached Bylaws shall be recorded against the entire real property upon which the Community is located (the "**Property**"). A complete legal description of the Property is set forth in Exhibit "A", which is attached to and made part of this Declaration.

NOW, THEREFORE, the Declarant hereby declares as follows:

#### **DECLARATION**

Declarant declares that the Property including, without limitation, all Lots located thereon, shall be held, sold, conveyed, encumbered, hypothecated, leased, used, occupied, and improved, subject to the following easements, restrictions, covenants, conditions and equitable servitudes, all of which are for the purpose of uniformly enhancing and protecting the value, attractiveness and desirability of the Community, in furtherance of a general plan for the protection, maintenance, subdivision, improvement and sale of the Property or any portion thereof. The covenants, conditions, restrictions, reservations, easements and equitable servitudes set forth herein shall run with each Lot located on the Property, including any additions thereto, and shall be binding upon all persons having any right, title or interest in the Property or any part thereof, their heirs, successors and assigns and shall inure to the benefit of every portion of the Property and any interest therein; and shall inure to the benefit of and be binding upon Declarant, and its successors in interest; and may be enforced by any Owner and its successors in interest and by the Association.

Notwithstanding the foregoing, no provision of this Declaration shall be construed as to prevent or limit Declarant's, its successors', heirs' or assigns', rights to complete development of the Subdivision within the Expandable Area of the Property and construction of improvements therein, nor Declarant's, its successors', heirs' or assigns', rights to maintain model homes, construction, sales or leasing offices or similar facilities on any Lot or other area located in the Property. In addition, no provision of this Declaration shall be construed as to prevent or limit Declarant's, its successors', heirs' or assigns', rights to remove unrecorded phases within the Expandable Area from being subjected to this Declaration.

## ARTICLE 1 - DEFINITIONS

In addition to other words or terms defined herein, the following words, terms and phrases when used in this Declaration (unless the context otherwise requires) shall have the following meanings:

- 1.1 **"Architectural Control Committee"** or **"ACC"** shall mean that certain committee composed of no less than three (3) individuals, established for review of the plans for building, construction, installation of certain Improvements on any Lot as outlined herein.
- 1.2 **"Additional Charges"** shall mean and refer to any and all late charges, accrued interest, administrative costs, filing and recording fees, and other costs or expenses, including without limitation reasonable attorneys' fees and expenses, incurred by the Association in connection with, or in the process of recovering, any delinquent fees, Assessments, charges or other amounts owed by an Owner to the Association.
- 1.3 **"Annual Budget"** has the meaning provided in Section 16.1, below.
- 1.4 **"Articles"** or **"Articles of Incorporation"** shall mean and refer to the Articles of Incorporation of the Association that have been filed with the State of Utah, as such Articles may be amended from time to time.
- 1.5 **"Assessment(s)"** means any charge imposed or levied by the Association on or against any Owner or Lot pursuant to the provisions of the Governing Documents or any applicable law, including Base Assessments, Special Assessments and any other Assessments which may be applicable to one or more Owners.
- 1.6 **"Association"** means and refers to Chalets At Ski Lake Owners Association, a Utah non-profit corporation or any other entity as the Association may be known and identified according to the records of the Utah Department of Commerce, Division of Corporations and Commercial Code, business entity records.
- 1.7 **"Board"** or **"Board of Trustees"** shall mean and refer to the Board of Trustees of the Association which is vested with the authority to manage the Project and enforce this Declaration, the Bylaws and the Rules and Regulations.
- 1.8 **"Bylaws"** means the Bylaws of the Association, as the same may be amended from time to time, which are attached hereto as Exhibit "B."
- 1.9 **"Common Areas"** means, refers to, and includes:
- (a) Any real property included within the Project, whether leasehold or in fee simple, including all Common Area Improvements constructed on such real property, excluding the individual Lots;
  - (b) All portions of the Project designated as Common Area pursuant to the Governing Documents and/or the Plat Map;

(c) Those portions of the Project that are owned, operated, controlled and/or managed by the Association for the common benefit of the Owners (including, by example, and without limitation, the Project's landscaped entryway and open space areas); and

(d) All other portions of the Project (excluding the individual Lots) that are normally in common use by the Owners, or that are necessary or convenient to the Project's use, existence, maintenance, safety, operation and/or management, or which have been designated by the Association as Common Areas.

1.10 **"Common Area Improvements"** means, refers to, and includes any infrastructure, buildings, structures, facilities, equipment and Improvements that have been or may be installed, constructed or attached on or to any portion of any Common Area. Such Common Area Improvements shall include, by example and without limitation, the Project's entryway signage, tree planters, trees, shrubs, picnic areas and shelters, flagpoles, trails, and any other similar improvements that are intended for the use and enjoyment of all Owners.

1.11 **"Common Expenses"** means and refers to:

(a) Any sums lawfully assessed against the Owners;

(b) Expenditures lawfully made or incurred by or on behalf of the Association for the operation, administration, maintenance, repair, or replacement of the Common Areas and Common Area Improvements (including, by example, and without limitation, electricity, irrigation water, and landscaping);

(c) Administrative costs and expenses incurred by the Board in creating, revising, interpreting or enforcing the Governing Documents;

(d) Any sums which are required by the Board to perform or exercise its functions, duties, or rights under the Acts or the Governing Documents;

(e) Operation, management and regulation of the Project;

(f) Any other expenses lawfully and reasonably allocated by the Board among the Owners as determined by a majority vote of the Board;

(g) Any sums deemed by the Board as necessary to address any budget deficit(s) remaining from any previous fiscal year(s);

(h) Any sums deemed by the Board as necessary to create and/or maintain an adequate Reserve Fund; and

(i) Any other expenses that are identified or defined as Common Expenses under the Acts or the Governing Documents.

1.12 **"Common Expense Fund"** means and refers to that fund more particularly described under Section 4.3.1, which is to be used to cover basic expenses related to administration, maintenance, and management of the Association and Project including, without limitation, the Common Expenses and similar expenses as determined by majority vote of the Board.

- 1.13 **"Community Act"** means and refers to the Utah Community Association Act, Utah Code Ann. Sections 57-8a-101 *et. seq.*, as may be periodically amended.
- 1.14 **"County"** means and refers to Weber County, Utah and its appropriate departments, officials and boards.
- 1.15 **"Declarant"** means and refers to Valley Enterprises Investment Company, LLC, a Utah limited liability company, its successors and assigns.
- 1.16 **"Declaration"** means and refers to this Fourth Amended and Restated Declaration of Covenants, Conditions, and Restrictions for The Chalets At Ski Lake, as may be amended or supplemented from time to time.
- 1.17 **"Dwelling"** means and refers to any structure which is designed and intended for use and occupancy as a single-family residence, together with all improvements located on the same Lot and used in conjunction with such Dwelling.
- 1.18 **"Expandable Area"** shall, at any point in time, mean any of the unrecorded phases within the Property. The Expandable Area may also include certain real property located immediately adjacent to the Project as more particularly described under Section 24.4.
- 1.19 **"Governing Documents"** means and refers to the Plat Maps, the Articles of Incorporation, this Declaration, the Bylaws, and any Rules and Regulations of the Association as the same may be amended or supplemented from time to time.
- 1.20 **"Improvement(s)"** shall means and refer to any and all structures, appurtenances and improvements of every type and kind, including, but not limited to, buildings, dwellings, garages, shacks, sheds, barns, outhouses, walkways, sidewalks, driveways, parking areas, retaining walls, fences, railings, walls, driveways, fences, landscaping, irrigation/sprinkler components and systems, playground sets, swing sets, jungle gyms, trampolines, volleyball nets, basketball backboard and/or pole systems, and similar recreational equipment, hot tubs, whirlpools, Jacuzzis, decks, patios, porches, stairs, poles, lighting, trees, bushes, shrubs or other landscaping, signs, satellite dishes or other antennas, and any mechanical equipment located on the exterior of any building.
- 1.21 **"Lot"** means and refers to any numbered building Lot shown as on any recorded Plat(s).
- 1.22 **"Lot Owner"** shall have the same meaning as the term Owner as set forth under Section 1.28, below.
- 1.23 **"Majority of the Owners"** means more than Fifty Percent (50%) of the total number of Owners who are entitled to vote. As set forth under Section 3.3 of this Declaration, only one vote may be cast for each Lot.
- 1.24 **"Member"** shall mean and refer to the Owner of a Lot (whether or not the Dwelling located on such Lot serves as the Owner's primary residence).

- 1.25 **"Mortgage"** shall mean any mortgage, deed of trust, or trust deed or the act of encumbering any property by a mortgage, deed of trust or trust deed as evidenced by an instrument that has been recorded with the Recorder's Office. The term "Mortgage" shall not mean or refer to an executory contract of sale.
- 1.26 **"Mortgagee"** shall mean any mortgagee of a mortgage and any trustee or beneficiary of a deed of trust or trust deed.
- 1.27 **"Nonprofit Corporation Act"** means and refers to the Utah Revised Nonprofit Corporation Act (Utah Code Section 16-6a *et seq.*) as the same may be amended from time to time.
- 1.28 **"Owner"** means and refers to any individual or legal entity in possession (as reflected by the records in the office of the County Recorder of Weber County, Utah) of a fee or undivided fee interest in any Lot, including contract sellers, but not including purchasers under contract until such contract is fully performed and legal title is conveyed of record. Notwithstanding any applicable theory relating to mortgages, no Mortgagee shall be an Owner unless such party acquires fee title pursuant to foreclosure or sale or conveyance in lieu thereof. Declarant shall be an Owner with respect to the Expandable Area but shall also be an Owner with respect to each Lot owned by the Declarant.
- 1.29 **"Person"** means and refers to any natural person or any legal entity with a right to hold title to real property in its own name in the State of Utah.
- 1.30 **"Plat"** means the Phase 1 Map, the Phase 2 Map, the Phase 3 Map, the Phase 4 Map, the Phase 5 Map, the Phase 6 Map, the Phase 7 Map, the Phase 8 Map, as well as any other plats or plat maps that may be prepared and recorded in the Recorder's Office as a substitution to or amendment of such plats or plat maps.
- 1.31 **"Project"** means and refers to the entirety of the Property, which is also commonly known as the "The Chalets at Ski Lake".
- 1.32 **"Property"** means and refers to that certain real property located in Weber County, Utah, described under Exhibit "A", which is attached to and made part of this Declaration.
- 1.33 **"Recorder's Office"** means the Recorder's Office of Weber County, State of Utah.
- 1.34 **"Reserve Fund"** means and refers to that certain fund more particularly identified and described under Article 20, which shall be used to cover (a) the cost of repairing, replacing or restoring Common Areas, including, without limitation, Common Area Improvements that have a useful life of three (3) years or more and a remaining useful life of less than thirty (30) years, and/or (b) any costs and expenses incurred in making any other improvements, repairs or acquisitions described in the most recent reserve analysis.
- 1.35 **"Residence"** shall have the same meaning as the term Dwelling as set forth under Section 1.17, above.

1.36 **"Rules and Regulations"** means and refers to those rules and regulations adopted or revised by the Board from time to time that are intended to further govern the Owners' use and enjoyment of the Project.

1.37 **"Subdivision"** shall have the same meaning as the term Project as set forth under Section 1.31, above.

1.38 **"Subdivision Improvements"** mean and refer to any improvements of the Subdivision that may be installed outside the boundaries of Lots or within easements as identified on the Plats that are necessary to provide public road access and utility service to the Lots, and including other construction work required to comply with any conditions of County or other governmental agencies to the approval of the Subdivision or any Plat thereof.

1.39 **"Supplemental Declaration"** means and refers to any supplement to this Declaration that has been adopted in the same manner that amendments to the Declaration may be made pursuant to Article 26 of this Declaration.

## ARTICLE 2 – DESCRIPTION OF PROJECT

The purpose of this Article 2 is to provide certain information required under Section 57-8a-212 of the Community Act.

**2.1 Project/Community.** The name of the Project/Community is "The Chalets at Ski Lake".

**2.2 Association.** As set forth under Section 1.6, the name of the Association is "Chalets at Ski Lake Owners Association"

**2.3 No Cooperative or Condominiums.** The Project is not a cooperative, and no portion of the Project contains or will contain any condominiums.

**2.4 Right to Expand Project.** Pursuant to Article 24 of this Declaration, Declarant reserves the option to expand the Project by adding additional land through the recording of a recorded Supplemental Declaration.

**2.5 Description and Location.** The legal description of the land on which the Project is located is set forth in Exhibit "A", which is attached to and made part of this Declaration. The entire Project is located within Weber County in the State of Utah.

**2.6 Limited Common Area / Common Area.** Unless otherwise provided under the terms and conditions of any amendment to this Declaration, the Project shall not include any Limited Common Areas. The Common Areas shall include those portions of the Project described under Section 1.9.

**2.7 No Restrictions on Alienation.** There shall be no restriction or restraint on alienation of any Lot including, without limitation, the leasing of any Lot or any Dwelling. The language of this Section 2.7 is subject to any applicable laws, rules, regulations or ordinances that may be imposed by Weber County or any local government agencies (*e.g.* restrictions on short-term rentals).

**2.8 Appointment of Trustee.** The Declarant hereby conveys and warrants pursuant to U.C.A. Sections 57-1-20 and 57-8a-302 to Clark Duellman, Esq., a licensed member of the Utah State Bar, (or any other individual who qualifies as a trustee under U.C.A. Subsections 57-1-21(1)(a)(i) or (iv) and has been named as trustee by the Declarant during the Class "B" Member Control Period, or by the Board of Trustees after the Class "B" Member Control Period has terminated) with power of sale, the lot and all improvements to the lot for the purpose of securing payment of Assessments under the terms of this Declaration.

### ARTICLE 3 – OWNERS' ASSOCIATION, MEMBERSHIP & VOTING

#### 3.1 Form of Association

The Association is a Utah nonprofit corporation organized under the laws of the State of Utah.

#### 3.2 Membership

**3.2.1 Qualification.** Each Owner shall be a Member of the Association and shall be entitled to one membership for each Lot owned. Ownership of a Lot shall be the sole qualification for membership in the Association.

**3.2.2 Transfer of Membership.** Each Owner's membership in the Association shall be appurtenant to the Lot giving rise to such membership, and shall not be assigned, transferred, pledged, hypothecated, conveyed or alienated in any way except upon the transfer of title to said Lot and then only to the transferee of title to such Lot. Any attempt to make a prohibited transfer shall be void. Any transfer of title to a Lot shall automatically transfer the membership in the Association appurtenant thereto to the Lot's new Owner.

**3.2.3 Mandatory Membership.** Each Lot Owner is required to be a Member of the Association. Likewise, each purchaser of a Lot, by virtue of accepting a deed or other document of conveyance thereto, shall automatically become a Member of the Association. Membership may not be partitioned from the ownership of a Lot.

#### 3.3 Voting

**3.3.1 Voting Rights.** The Owner of each Lot (or the combined Owners of any given Lot) shall be entitled to one (1) vote.

3.3.2 Voting Owner. There shall be one "voting representative" for each Lot. If a person owns more than one Lot, that person shall have the votes for each Lot owned. For Lots held in trust, the Owner shall be the acting trustee of the trust at the time of the vote. The voting representative for a particular Lot shall be designated by the Owner (or all Owners) of such Lot by written notice to the Board, and need not be an Owner of that Lot. The designation shall be revocable at any time by actual notice to the Board from a party having an ownership interest in a Lot, or by actual notice to the Board of the death or judicially declared incompetence of any party with an ownership interest in that Lot. This power of designation and revocation may be exercised by the guardian of a Lot Owner, and may also be exercised by the administrators or executors of an Owner's estate. Where no designation is made, or where a designation has been made but is revoked and no new designation has been made, the voting representative of each Lot shall be the group composed of all of its Owners.

3.3.3 Joint Owner Disputes. The vote for a Lot must be cast as a single vote, and fractional votes shall not be allowed. In the event that joint Owners are unable to agree among themselves as to how their vote or votes shall be cast, they shall lose their right to vote on the matter in question. In the event more than one vote is cast for a particular Lot, none of said votes shall be counted and said votes shall be deemed void.

3.3.4 Pledged Votes. In the event the record Owner or Owners have pledged their vote regarding special matters to a Mortgagee or beneficiary of a deed of trust under a duly recorded Mortgage or deed of trust, or to the vendor under a duly recorded real estate contract, only the vote of such mortgagee, beneficiary, or vendor will be recognized in regard to the special matters upon which the vote is so pledged, if a copy of the instrument with such a pledge has been filed with the Board. Amendments to this subsection shall only be effective upon the written consent of all the voting Owners and their respective Mortgagees, deed of trust beneficiaries, and vendors, if any.

3.3.5 Mail-In Ballots. In any instance where voting on a matter is permitted or required herein, such vote may be carried out without a meeting pursuant to the procedures set forth in the Bylaws, and the approval of a majority of the votes actually cast shall be sufficient to approve such matter, except where a different threshold is specifically required herein.

3.3.6 Voting Classes. The Association shall have two (2) classes of voting membership, Class "A" and Class "B", as follows:

(A) Class "A". Class "A" Members shall be all Owners with the exception of the Class "B" Member, if any. Class "A" Members shall be entitled to one (1) equal vote for each Lot in which they are an Owner. There shall be only one (1) vote per Lot. In any situation where an Owner is entitled personally to exercise the vote for his or her Lot and more than one (1) Person holds the interest in such Lot required for membership, the vote for such Lot shall be exercised as those Persons determine among themselves and advise the Board of Trustees, in writing, prior to any meeting in which the Owner(s) of such Lot have the right to vote. In the absence of the Board being advised as to which Person holds the right to exercise such vote, the Lot's vote shall be suspended if more than one Person seeks to exercise it.



(B) Class "B". The Class "B" Member shall be the Declarant. In all matters requiring a vote, the Class "B" Member shall receive four (4) votes for each recorded Lot owned by the Declarant and four (4) votes for each acre of property owned by the Declarant within the Expandable Area but not yet part of a recorded plat. As provided under Section 57-8a-102(19) of the Community Act, the Class "B" Member shall have the authority to appoint, remove and/or replace all or any members the Board of Trustees during the entire Class "B" Control Period.

3.3.7 Class "B" Control Period. Pursuant to Section 57-8a-502 of the Community Act, the Class "B" Control Period shall run until the first to occur of the following:

(A) When 90% of the total Lots located on the Property have been sold and conveyed to individuals or entities other than the Declarant. (i.e. 68 of 76 total Lots); or

(B) When, at its sole discretion, the Class "B" Member elects to surrender the Class "B" Member's rights to control the activities of the Board and the Association, which the Class "B" Member shall indicate by giving written notice to the Lot Owners and subsequently recording an instrument with the Weber County Recorder's Office.

Consistent with Section 57-8a-502(2)(b) of the Community Act, during the entire Class "B" Control Period, any actions of the Association or the Board of Trustees must be approved by the Declarant before they become effective.

### 3.4 Association Bylaws

3.4.1 Adoption of Bylaws. Bylaws for the administration of the Association and the Project and for other purposes not inconsistent with the Acts or with the intent of this Declaration, have been adopted by the Association and a copy of such Bylaws is attached to this Declaration as Exhibit "B." As noted under Recital U of this Declaration, the Bylaws shall completely replace, supersede and restate in their entirety the Initial Association Bylaws, as well as any amendments to such Initial Association Bylaws, as well as any other recorded or unrecorded bylaws, or any amendments or supplements thereto, that may have ever been applied to enforced against the Association or Project prior to the date this Declaration is recorded.

3.4.2 Bylaws Provisions. The Bylaws may contain supplementary provisions, not inconsistent with this Declaration, regarding the operation and administration of the Project. The Bylaws shall establish such provisions for quorum, ordering of meetings, and details regarding the giving of notice as may be required for the proper administration of the Association and the Project.

## ARTICLE 4 – BOARD OF TRUSTEES

**4.1 Board Purpose.** Administrative, management, and enforcement authority of the Association is vested in the Board of Trustees, which shall be elected by, and from among, the Owners pursuant to the Bylaws. The Board, for the benefit of the Association and the Owners, shall administer, manage and enforce the provisions of the Governing Documents and shall have all powers and authority permitted to the Board under the Community Act, the Nonprofit Corporation Act and/or the Governing Documents. The Board shall elect officers from among the Board members pursuant to the Bylaws.

**4.2 Board Approvals.** Any actions requiring Board approval under the Governing Documents including, without limitation, any actions the Board is permitted to take or approve without prior approval of the Owners (such as, for example, the imposition of certain Special Assessments as described in this Declaration) must be adopted and approved by a majority vote of the Board (*i.e.* more than half of the Board members).

### 4.3 Board Authority

4.3.1 The Board shall acquire and shall pay for out of the Common Expense Fund any goods and services required for the proper functioning of the Association and the Project, including but not limited to the following:

(a) Utilities. The cost of any utilities that may be required for the Common Areas, the Common Area Improvements and/or the benefit of the entire Project.

(b) Insurance. Policies of insurance or bonds providing coverage for fire and other hazard, liability for personal injury and property damage, fidelity of Association officers and Association agents or employees, and Trustee's and officer's liability or errors and omissions, as such policies are more fully described and required in this Declaration and in the Bylaws.

(c) Management Services. The services of persons or firms as required to properly manage and operate the affairs of the Association and/or the Project to the extent deemed advisable by the Board as well as such other personnel as the Board shall determine are necessary or proper for the operation of the Common Areas, whether or not such personnel are employed directly by the Board or are furnished or employed by such manager.

(d) Professional Services. Legal and accounting services necessary or proper in the management and operation of the Association's affairs, administration of the Common Areas, or the interpretation, modification, or enforcement of the Governing Documents.

(e) Common Area Maintenance Services. Painting, maintenance, repair of the Common Areas (including any Common Area Improvements) as the Board determines as necessary and proper.

(f) Materials, Supplies. Materials, supplies, labor, services, maintenance, repairs, structural alterations, insurance, taxes or assessments which the Board is required to secure by law, or which in the Board's reasonable opinion shall be necessary or proper for the operation or maintenance of the Common Areas (including Common Area Improvements) or for the enforcement of the Governing Documents.

(g) Personal & Real Property. Acquire and hold in the name of the Association, for the benefit of the Owners, tangible and intangible personal property and real property and interest therein, and dispose of the same by sale or otherwise; and the beneficial interest in such property shall be collectively owned by the Owners, and such property shall thereafter be held, sold, leased, rented, mortgaged or otherwise dealt with for the benefit of the Association as the Board may direct. The Board shall not, however, in any case acquire real property or personal property (other than for purposes of restoring, repairing or replacing portions of the Common Areas) valued in excess of Ten Thousand Dollars (\$10,000) by lease or purchase without approval of a Majority of the Owners.

(h) Lien Discharge. Pay any amount necessary to discharge any lien or encumbrance levied against the Project or any part thereof which is claimed to or may, in the opinion of the Board, constitute a lien against the Project or against the Common Areas, rather than merely against the interest therein of any particular Owner(s). Where one or more Owners are responsible for the existence of such lien, they shall be jointly and severally liable for the cost of discharging it and any costs and expenses incurred by the Board by reason of such lien or liens shall be assessed against the Owners responsible (and their Lots) to the extent of their responsibility.

4.3.2 Not for Profit. Nothing herein contained shall be construed to give the Board authority to conduct an active business for profit on behalf of all or any of the Owners.

4.3.3 Right to Contract. The Board shall have the exclusive right to contract for all goods and services, payment of which is to be made from the Common Expense Fund.

4.3.4 Adoption of Rules and Regulations. As set forth under Section 57-8a-217 of the Community Act, the Board shall have the authority to adopt, amend, modify, cancel, limit, create exceptions to, expand, or enforce the Rules and Regulations. Unless otherwise specifically permitted or granted by the Declarant or until the Declarant's authority to unilaterally establish, oversee and manage the Architectural Control Committee has expired, the Board shall not have any authority to adopt, amend, modify, cancel, limit, create exceptions to, expand, or enforce any design criteria related to the Project. As permitted under Section 57 8a 217(6) of the Community Act, during the entire Class "B" Control Period, the Declarant shall be exempt from any Rules or Regulations and shall also be exempt from the Board's or the Association's rulemaking procedures.

4.4 **Indemnification of Board**. The Association shall indemnify the Board against any and all claims arising against them personally which are a result of the good faith exercise of the powers, duties and responsibilities of their office under this Declaration and the Bylaws.

4.5 **Elections**. In any election for the Board of Trustees, or any other matter which is presented to the Association, each Owner (including the Declarant to the extent the Declarant continues to own any Lots) shall be entitled to vote as set forth in the Bylaws.

#### **ARTICLE 5 – ARCHITECTURAL CONTROL COMMITTEE**

5.1 It is the intention and purpose of this Declaration to impose architectural standards on any Improvements that may be constructed, erected or installed on any Lot such that the Improvements are architecturally compatible and aesthetically pleasing in terms of location, lot coverage, proportion, materials, colors and general appearance. To accomplish this goal, the Declarant hereby establishes the Architectural Control Committee, which is empowered to oversee and enforce the architectural design standards, as set forth in this Declaration and as modified by the ACC.

5.2 Declarant shall have the sole right and absolute discretion to appoint, remove and/or replace all or any members the Architectural Control Committee during the entire Class "B" Control Period. After expiration or termination of the Class "B" Control Period, and continuing until any and all Lots located on the Property have been sold and conveyed to Persons other than the Declarant, the Declarant shall have the sole right and absolute discretion to appoint, remove and/or replace a majority of members the Architectural Control Committee. Immediately upon the date upon which any and all Lots located on the Property have been sold and conveyed to Persons other than the Declarant, all members of the Architectural Control Committee shall be appointed by the Board of Trustees. Architectural Control Committee members shall serve until the appointment of their successor and may be removed without cause at any time by the person or persons entitled to appoint their successor in accordance with this paragraph.

#### **ARTICLE 6 – ARCHITECTURAL CONTROL COMMITTEE APPROVAL**

6.1 The following guidelines shall be used as the basis for an Owner's approval for developing and improving his or her Lot.

(a) An overall view of any proposed Improvement(s) must be discussed with the Architectural Control Committee before submitting any preliminary plans. A fee, as reasonably determined by the Architectural Control Committee, will be payable to the Architectural Control Committee with the submission of the preliminary plans of any Improvements in order to help defray costs incurred by the Architectural Control Committee for its time and work in the approval process.

(b) The preliminary plans for any Lot must include the following:

(i) A site plan with the location of any Improvement(s) on the Lot upon which it or they will be placed or constructed and the location of the proposed Improvement(s) relative to the other Improvements on said Lot.

(ii) Floor plans of each floor level of the Dwelling.

(iii) The basic structural system of the Improvement or Improvements and the materials to be used in the construction thereof.

(iv) All elevations and height of any Improvement or Improvements.

- (v) A grading plan for all Improvements.
- (vi) Preliminary landscaping design for the entire Lot.
- (vii) Proposed time schedule for construction and completion of all Improvements.
- (viii) A survey acceptable to the Architectural Control Committee indicating the location of Lot boundaries and the proposed position of each Improvement that Owner intends to construct, erect or install on the Lot.

6.2 Final approval from the Architectural Control Committee, with regard to (a) any Improvements that may be constructed, installed or placed in any Lot, (b) any of the items listed under Section 6.1(b), above, or (c) any other items that may be required by the ACC or submitted to the ACC for review, must be given by the ACC in advance and in writing.

6.3 The Architectural Control Committee will not give its consent to any proposed Improvement unless, in the opinion of the Architectural Control Committee, the Improvement is properly positioned and designed, and the design, contour, materials, shapes, colors and general character of the Improvement is in harmony with other Improvements that are or may be constructed, erected or installed on the Lot and/or on other Lots, and is in harmony with the surrounding landscape. The Improvements shall be designed and located upon the Lot so as to minimize any disruption to the natural landforms and vegetation cover and to minimize blockage, obstruction, diminishment of or interference with the view corridors of other Lots and/or Dwellings as determined by the Architectural Control Committee.

6.4 The Architectural Control Committee shall have the right to disapprove any application in the event, the ACC's reasonable judgment, said application and the plans submitted therewith are not of sufficient detail, or are not in accordance with the provisions herein set forth, or if the design or construction of any proposed Improvement is not in harmony with neighboring Improvements and the general surroundings of the Project, or, in the judgment of the Architectural Control Committee, would decrease the real estate value of the Community, or if the design and the plans for construction do not include sufficient safeguards for preservation of the environment, or for any other reason the Architectural Control Committee may deem in the best interests of the Community. The decision of the Architectural Control Committee shall be final, binding and conclusive on all parties affected.

6.5 The Board and/or the Architectural Control Committee shall have the absolute right and authority to demand the removal, modification and/or relocation of any Improvements(s) that were not approved by the ACC in writing as required by this Declaration. However, consistent with Section 6.6, below, neither the Board nor the Architectural Control Committee shall have any such right or authority to demand the removal, modification and/or relocation of any Improvement(s) if the Architectural Control Committee failed to approve or disapprove such Improvement(s) within thirty (30) days after any plans and specifications that clearly identified such Improvement(s) were properly submitted to the Architectural Control Committee.

6.6 Non-Waiver. The approval of the Architectural Control Committee of any plans, drawings or specifications for any work done or proposed or in connection with any other matter, requiring the approval of the Architectural Control Committee under these restrictions, shall not be deemed to constitute a waiver of any right to withhold approval as to any similar plan, drawing, specification or matter whenever subsequently or additionally submitted for approval. Upon approval or disapproval of the plans by the Architectural Control Committee, one set of plans shall be returned to the Lot Owner and signed "approved" or "disapproved" by the Architectural Control Committee and one set shall be retained by the Committee. In order to obtain such approval, the Owner must submit for consideration of the Architectural Control Committee such details and information with relation to the contemplated action as the Architectural Control Committee shall request. If the Architectural Control Committee fails to approve or disapprove the construction, installation, placement, design and/or location of any particular Improvement(s) within thirty (30) days after the plans and specifications that clearly identify such Improvement(s) have been submitted to the ACC, said plans and specifications, and the Improvements that are clearly identified thereon, shall be deemed approved and the Owner submitting said plans shall be deemed to be in full compliance with this Article.

6.7 Professional Assistance. If at any time the Architectural Control Committee shall determine that it would be in the best interest of the Association for the Architectural Control Committee and/or the Lot Owner to employ professional assistance to design any Improvement involved in the proposed work the Architectural Control Committee shall inform such Owner of its determination, whereupon all plans and specifications shall be prepared by such qualified professionals as the Architectural Control Committee shall determine.

6.8 Immunity of Architectural Control Committee. Notwithstanding the foregoing provisions, the Architectural Control Committee shall have no affirmative obligation to be certain that all elements of the design comply with restrictions contained in this Declaration, and no member of the Architectural Control Committee shall have any liability, responsibility or obligation whatsoever for any decision or lack thereof, in the carrying out of the duties as member of the ACC. The ACC and its members shall have only an advisory function and the sole responsibility for compliance with all of the terms of this Declaration shall rest with the Owner. Each Owner agrees to save, defend and hold harmless the Architectural Control Committee and each of its members on account of any activities of the Architectural Control Committee relating to such Owner's property or buildings to be constructed on his or her Lot.

## ARTICLE 7 – DWELLING CONSTRUCTION AND RESTRICTIONS

7.1 Architectural Requirements. In order to promote a harmonious community development and protect the character of the Community, the following architectural guidelines must be followed:

- (a) Dwelling style, design, alterations or additions shall conform to standards determined by the Architectural Control Committee.

- (b) The location and placement of a Dwelling on a Lot shall first be approved by the Architectural Control Committee before commencement of construction. The Architectural Control Committee will review and consider: (i) the location of the Dwelling to be constructed on the Lot in relation to other Lots with regard to the boundary lines of such Lots, (ii) the placement of the Dwelling to be built on the Lot so as to reasonably maximize the views of the Dwelling to be built without unreasonably blocking, obstructing, diminishing or interfering with the view corridors of other Lots and/or Dwellings, and (iii) the special features of the Lot in relation to the surrounding area regarding desirability for construction purposes. Approval of the location and placement of a Dwelling on a Lot by the Architectural Control Committee shall be final as to all other Owners in the Project. Such approval shall also be final as to the Owner of the Lot under review unless it is determined by a court of competent jurisdiction that the Architectural Control Committee acted unreasonably, arbitrarily or capriciously.
- (c) Exterior construction materials shall be limited to stone, stone veneer, cultured stone, brick, brick veneer, wood siding, treated logs, or cement fiberboard and shall be in natural tones indigenous to and harmonious with the area. Synthetic stucco, aluminum siding, or vinyl siding shall not be allowed, except in reasonable areas such as the fascia and soffit as approved by the Architectural Control Committee.
- (d) Roof design shall be limited to a minimum of 4/12 pitch.
- (e) Location of all storage or utility buildings, garbage and refuse containers, air conditioning equipment and utility pipes, etc., must be placed in a manner not obvious from the adjacent street and preferably in the rear of the Dwelling.
- (f) Any light used to illuminate garages, patios, parking areas or for any other purpose shall be so arranged to reflect light away from adjacent Dwellings and away from the vision of passing motorists. All exterior lighting must have a minimum effect on the Ogden Valley's natural dark skies.
- (g) Respecting the open space feel of the mountain environment, the location, design, materials and color of any and all fences or similar Improvements must be approved by the Architectural Control Committee in writing prior to installation. Fences, if approved by the ACC, will be limited to that portion of the backyard of the Lot that extends from the rearmost corners of the Dwelling and parallel to the sides of the Dwelling. Fences will not be permitted on any portion of the front yard or side yard of any Lot. Electronic pet fences are encouraged. Fencing shall be harmony with the Dwelling and surrounding areas. Chain link and other wire fences are strictly prohibited, while ornamental iron will be considered on a case-by-case basis. The color of the fence must match the base paint of the Dwelling. Hedge fencing, or any similar boundary formed by dense rows of bushes, shrubs or low trees is prohibited.

- (h) A maximum of four (4) feet of concrete foundation may be exposed above ground.
- (i) Whenever possible, retaining walls should appear to be an extension of the Dwelling and are subject to the same criteria relative to color, materials, appearance and durability as the Dwelling itself.
- (j) Significant natural drainages that traverse the homesites shall be maintained in their original condition. Eroding areas must be stabilized and re-vegetated. Where construction and development will obstruct natural drainage patterns, surface run-off should be carefully redirected to existing drainage areas or new swales designed to look natural. Swales may be required above new cut or fill slopes to protect them from erosion. French drains are encouraged where appropriate.

7.2 Construction Requirements. The following regulations shall be enforced during the construction period of all Improvements on the Project.

- (a) Approximate Building Location. The Approximate Building Location or "ABL," which is the limit of development on each Lot, is also the area within which all activities related to the Improvements to be constructed must be confined, except as otherwise provided specifically in this Declaration or approved by the Architectural Control Committee.
- (b) Trash Receptacles and Debris Removal. Owners and builders shall cleanup all trash and debris at the end of each day; an approved trash receptacle must remain on the site at all times for this purpose to contain all lightweight materials or packaging. The receptacle must be positioned on the site alongside the access drive, clear of side and rear setbacks, adjacent road right(s)-of-way and neighboring properties. Trash receptacles must be emptied on a timely basis to avoid overflow of refuse; disposal shall be at a suitable off-site facility. Owners and builders are prohibited from dumping, burying, or burning trash anywhere on the Lot or in the Subdivision. Heavy debris, such as broken stone, wood scrap, or the like must be removed from the site immediately upon completion of the work of each trade that has generated the debris.
- (c) Concrete Washout. All concrete washouts, from both trucks and mixers, must occur within the ABL of the Lot in a location where it will be ultimately concealed by structure or covered by backfill. Washout in road rights-of-way, setbacks or on adjacent properties is strictly prohibited.
- (d) Cleanup. During the construction period, each construction site shall be kept neat and shall be properly policed to prevent it from becoming a public eyesore or detriment to other Lots or open space. Dirt, mud, or debris resulting from activity on each construction site shall be promptly removed from public or private roads, open spaces and driveways or other portions of the Subdivision. Any cleanup costs incurred by the Association in enforcing these requirements shall be payable by the Owner.



- (e) Sanitary Facilities. Each Owner or builder shall be responsible for providing adequate sanitary facilities for his/her construction workers. Portable toilets must be located within the ABL, clear of all setbacks and in a discreet location.
- (f) Construction Access. The approved access drive approved by the Architectural Control Committee will be the only construction access to any Lot.
- (g) Vehicles and Parking Areas. Construction crews will not park on, or otherwise use, undeveloped portions of Lots or open space. All vehicles shall be parked within the ABL. During very busy construction periods involving multiple trades such that all construction vehicles cannot be confined to the site proper, the overflow vehicles may be temporarily parked along the shoulder of the roadway; in locations and for time periods solely as approved by the Architectural Control Committee. Vehicles may not be parked on neighboring Lots, in nearby driveways or on open space. Restoration of any native vegetation or roadway re-vegetation damaged by parking along the street frontage shall be the responsibility of the Lot Owner.
- (h) Dust and Noise Control. The contractor shall be responsible for controlling dust and noise from the construction site, including the removal of dirt and mud from public or private roads that is the result of construction activity on the site. The sounds of radios or any other audio equipment used by construction personnel must not be audible beyond the property perimeter of any Lot; repeated violations of this provision will precipitate a total prohibition of any on-site use of radios or audio equipment during construction.
- (i) Material Deliveries. All building materials, equipment and machinery required to construct an Improvement on any Lot must be delivered to and remain within the ABL of each Lot, clear of all setbacks. This includes all building materials, earth-moving equipment, trailers, generators, mixers, cranes and any other equipment or machinery that will remain overnight. Material delivery vehicles may not drive across adjacent Lots or tracts to access a construction site.
- (j) Preservation of Property. The use of or transit over any other Lot, common area or amenity is prohibited. Similarly, the use of or transit over the natural area or setbacks outside the ABL of any Lot is prohibited. Construction personnel shall refrain from parking, eating, depositing of rubbish or scrap materials (including concrete washout) on any neighboring Lot, tract, or right-of-way.
- (k) Protection of Subdivision Improvements and Restoration of Property. Each Owner shall be responsible for the protection of all subdivision Improvements, roadways, common areas, or Improvements of any Lot which may be damaged by the activities of such Owner's contractor, subcontractor,

agents, or employees. Upon completion of construction, each Owner and builder shall clean his/her construction site and repair all property which has been damaged, including but not limited to, restoring grades, planting shrubs and trees as approved or required by the Committee, and repair of streets, driveways, pathways, drains, culverts, ditches, signs, lighting, and fencing.

- (l) Daily Operation. Daily working hours for each construction site shall be from thirty (30) minutes before sunrise to thirty (30) minutes after sunset. Construction activity which generates noise audible from the boundaries of any Lot, such as hammering, sawing, excavation work, concrete delivery, etc., must be confined to the hours of 7:00 a.m. to 7:00 p.m., Monday through Friday, and 8:00 a.m. to 5:00 p.m. on Saturday. Noisy activity is prohibited on Sunday of each week.
- (m) Construction Insurance Requirements. All contractors and sub-contractors must post evidence of insurance with their Lot Owner prior to entering the construction premises.

#### **ARTICLE 8 – RESIDENTIAL HOMESITES**

All Lots in the Subdivision shall be known and described as residential homesites. No structure shall be erected, altered, placed or permitted to remain upon any homesite other than a one-family dwelling, such dwelling not to exceed two (2) stories above grade with a private attached garage of not more than four (4) cars and not less than two (2) cars; and other outbuildings as shall be approved in advance in writing by the Architectural Control Committee, subject to the rules and regulations of Weber County.

#### **ARTICLE 9 – SQUARE FOOTAGE REQUIREMENTS**

9.1 The Architectural Control Committee may disapprove of a proposed design if, in its sole opinion, the proposed structure would appear excessive in height or size when viewed from a street, Common Area, other Lot, and/or would appear out of character with other Dwellings in the Community or be undesirably prominent because of its size. The preferred building style is a one-story rambler with or without a one-story walkout basement. This is the least obstructive design and blends smoothly into the mountain terrain. Dwellings should be designed to fit the existing topography of the Lot without excessive manipulation of the site by cut or fill. The Dwelling and all other Improvements should “step down” slopes, so as to be a part of the site rather than altering the site to fit a non-responsive structure. The finish grade around the Dwelling and any site walls should remain as close as possible to the original grade.

9.2 No Dwelling shall be erected or placed on any single Lot within the Project unless one of the following minimum requirements is met:

- (a) If the Dwelling is a single level without a basement or walk-out basement, the main floor living areas, exclusive of porches, garage areas or basements, shall be no less than 3,000 square feet with a maximum of 4,000 square feet. A single level Dwelling shall have minimum interior ceiling heights of 11 feet. The maximum 4,000 square feet limitation may be waived by the Architectural Control Committee if, in its sole discretion, it finds that the increased square footage will not unreasonably block, obstruct, diminish or interfere with the views of other Lots and/or Dwellings within the Subdivision.
- (b) If the Dwelling is a single family or a rambler style with a basement or walk-out basement, the main floor living areas, exclusive of porches, garage areas or basements, shall be no less than 2,000 square feet or a maximum of 3,000 square feet. The maximum 3,000 square feet limitation on the main floor living area may be waived by the Architectural Control Committee if, in its sole discretion, it finds that the increased square footage will not unreasonably block, obstruct, diminish or interfere with the views of other Lots and/or Dwellings within the Subdivision.
- (c) If the Dwelling is a multi-level (*e.g.* three-level split, four-level split or two-story home) the main floor living areas, exclusive of porches, garage areas or basements, shall be no less than 1,800 square feet and a maximum of 3,000 square feet. A minimum of 800 square feet shall be on the upper level. The maximum 3,000 square feet limitation on the main floor living area may be waived by the Architectural Control Committee if, in its sole discretion, it finds that the increased square footage will not unreasonably block, obstruct, diminish or interfere with the views of other Lots and/or Dwellings within the Subdivision.

9.3 "Basement" is defined as more than 50% of the total perimeter shall be more than four (4) feet below grade.

#### **ARTICLE 10 – BUILDING AND LANDSCAPING TIME RESTRICTIONS**

10.1 The exterior construction of all structures shall be completed within a period of one (1) year following commencement of construction. The front, side and rear yard of each Lot shall be landscaped no later than one (1) year following completion of each Dwelling. The planting of trees within the Project is encouraged but the location of all such trees planted by an Owner must be approved by the Architectural Control Committee in advance and in writing, and must be placed in a location that minimizes blockage, obstruction, or diminishment of, or interference with the view corridors of other Lots and/or Dwellings. Areas covered with natural foliage (*e.g.* scrub oak, aspen, sage brush, etc.) will be considered landscaped and must not be disturbed in the building process except by approval of the Architectural Control Committee. Builder shall install native seed mix and/or sod together with landscaping plants and trees in all areas of unimproved land that have been disturbed in the building process.

10.2 There shall be no time requirement imposed upon an Owner requiring the commencement of construction of any Improvement upon a Lot.

10.3 No other building or structure may be constructed prior to the construction of the Dwelling on the Lot.

#### ARTICLE 11 - USE RESTRICTIONS

The following restrictions apply to the use of all Lots:

**11.1 No Mining, Business or Commercial Activities.** The Project shall be used for residential purposes only, and no mining, drilling, or quarrying activity will be permitted at any time on any portion of the Project. No portion of the Project may be used for any commercial or business use provided, however, that this restriction generally does not apply to use of a portion of a Dwelling as a professional office.

Dwellings may be used for certain activities normally associated with maintaining a professional office or conducting certain small businesses from home such as, for example, record-keeping, telephone calls, reception of mail, and computer or Internet activity. Any home-based business that involves employees (outside of the Owner's immediate family or household) working from the Dwelling is prohibited.

The overall purpose of the restrictions set forth under this Section 11.1 is to preserve the right of each Owner (or the guest, tenant or other occupant of any Dwelling) to live in a neighborhood that is free from business-related employee, client or customer interaction, potential Association liability due to business being conducted within the Project, and the nuisance or annoyance often associated with increased or excessive vehicular or pedestrian traffic. The restrictions of this Section 11.1 do not apply to the leasing or renting of any Dwelling.

#### **11.2 Signs.**

11.2.1 One sign containing the Lot number of Lot that is for sale by the Declarant and other signs identifying the Declarant, model homes for sale and/or other information may be displayed by the Declarant. The size of the sign must conform to the Weber County Sign Ordinance.

11.2.2 For a homesite that is owned by a party other than the Declarant, no more than one (1) temporary sign per homesite is allowed but only for (a) a Lot that is for sale, (b) a Dwelling that is for sale, or (c) a new Dwelling that is under construction. The sign must not be larger than six (6) square feet in size, and must also conform to the Weber County Sign Ordinance. After the original sale of a Dwelling or Lot by the Declarant, no temporary sign of any kind may be erected other than the sign described above, except as specifically approved in writing by the Architectural Control Committee.

**11.3 Completion Required Before Occupancy.** No Dwelling may be occupied prior to its completion and the issuance of a certificate of occupancy by appropriate governmental authorities. If a temporary certificate of occupancy is issued, it must be converted to a permanent certificate of occupancy no later than twelve (12) months after issuance.

**11.4 Animals.** No animals, livestock or poultry of any kind shall be raised, bred or kept on the above described property or any portion of such property, except dogs, cats or other household pets and horses as allowed under applicable County, States and Federal regulations, statutes and ordinances, which may be kept provided they are not kept, bred or maintained for any commercial purpose and that they do not constitute a menace or a nuisance to the community.

**11.5 Double Lot Dwellings.** Subject to governmental regulations, restrictions and approvals, and also subject to approval of the Architectural Committee which may be granted or denied in the ACC's sole discretion, an Owner who owns two adjoining Lots may construct a single Dwelling that is located on both Lots (a "**Double Lot Dwelling**"). An Owner may not construct a single Dwelling that is located on more than two adjoining Lots. Double Lot Dwellings shall be subject to the following standards and requirements:

**11.5.1 Double Lot Dwelling Design and Placement.** Any and all rules and restrictions regarding the design and location of Dwellings shall apply to Double Lot Dwellings or any other structures that may be constructed on adjoining Lots. The Architectural Committee shall reasonably determine the appropriate square footage of any Double Lot Dwelling.

**11.5.2 Notice of Building Parcel Designation.** The Owner of any adjoining Lots upon which the Owner intends to build a Double Lot Dwelling shall execute and deliver to the Board or Architectural Committee a recordable Notice of Building Parcel Designation under which the adjoining Lots shall be designated as a single building parcel. The Board or Architectural Committee shall record or file such Notice with the Recorder's Office upon the commencement of construction of the Double Lot Dwelling. Once the adjoining Lots have been combined pursuant to the recording of such Notice, the Lots cannot be separated unless such Notice has been vacated pursuant to the applicable procedures or requirements of any governmental agency or authority with jurisdiction over such matters. The Owner of any adjoining Lots upon which the Owner intends to build a Double Lot Dwelling shall also execute and deliver any document(s) that may be required by any governmental agency with authority regarding such matters, and any other document(s) that may be reasonably required by the Board or Architectural Committee.

**11.5.3 Membership and Voting.** The Owner of any adjoining Lots upon which the Owner constructs, or intends to construct, a Double Lot Dwelling shall continue to have one membership and one vote for each such Lot.

**11.5.4 Assessments.** The Owner of any adjoining Lots upon which the Owner constructs, or intends to construct, a Double Lot Dwelling shall continue to pay Assessments on each Lot. The Assessments imposed on such Owner will not be discounted or reduced in any manner whatsoever due to such Owner holding title to more than one Lot in the Project.

**11.6 No Re-Subdivision of Lots.** No Lot may be subdivided without the prior written consent of the Architectural Committee as well as all governmental agencies with jurisdiction regarding such matters. No subdivision of any Lot may result in the construction of any additional Dwellings within the Project beyond the number of Dwellings already designated under the Plat.

**11.7 Maintenance of Lots.** All Lots, and the Improvements on them, shall be maintained in a clean, sanitary, attractive and marketable condition at all times. No Owner shall permit his or her Lot or the Improvements on such Lot to fall into disrepair.

**11.8 No Noxious or Offensive Activity.** No noxious, dangerous or offensive activity (including the creation of loud or offensive noises or odors that detract from the reasonable enjoyment of the Project) take place on any Lot, in any Dwelling, or on any other portion of the Project, nor shall anything be done on any Lot, in any Dwelling, or on any other portion of the Project that may be or become an annoyance or nuisance to other Owners (or to the guest, tenant or other occupant of any Dwelling).

Excessive or disturbing noise is prohibited at all times. Such noise includes continuously barking dogs, loud speakers, or any other noise that would disturb other Owners (or to the guest, tenant or other occupant of any Dwelling). No activity that creates any noise that may disturb Owners (or the guest, tenant or other occupant of any Dwelling) is permitted before 7 A.M. or after 10 P.M. Exceptions to this Section 11.8 may be permitted with the Board's prior written consent.

**11.9 No Hazardous Activity.** No activity may be conducted on any Lot or any other part of the Project that is, or would be considered by a reasonable person to be, unreasonably dangerous or hazardous, or which would cause the cancellation of conventional property casualty insurance. This includes, without limitation, the storage of caustic, toxic, flammable, explosive or hazardous materials in excess of those reasonable and customary for household uses, the discharge of firearms or fireworks, and setting open fires (other than property supervised and contained barbecues).

**11.10 Trash.** No trash, garbage or other waste shall be kept or permitted to remain on any Lot except in sanitary containers such as those provided by "Waste Management Company" or a similar commercial company. No materials shall be kept or stored on any Lot or any street in front of any Lot that will be unsightly or that will be a fire hazard. No burning of trash shall be allowed on any Lot.

**11.11 Lighting Restrictions.** Outdoor lighting on any portion of any Lot (including, for example and without limitation, the exterior of any Dwelling) must be approved by the Architectural Committee in advance and in writing. Any such outdoor lighting must not be excessively bright and must aim downward and limit the field of light to the confines of the Lot on which the lighting is installed. Outdoor floodlights are absolutely prohibited. Whenever possible, efforts should also be made to ensure that indoor lighting is not unreasonably offensive to surrounding property owners. No excessively bright indoor lighting, such as industrial lights, floodlights, workroom, lights, or fluorescent lights, are permitted after dark. The Board and/or the Architectural Committee shall have the authority to require the removal or remediation of any lighting that fails to comply with any provision of the Governing Documents.

**11.12 Sewer Connection Required.** All Lots are served by sanitary sewer service, and no cesspools, septic tanks, or other types of waste disposal systems are permitted on any Lot. All Dwellings must be connected to the sanitary sewer system.

**11.13 Propane.** No aboveground propane tanks are allowed on any Lots (except one propane tank that is part of an outdoor gas barbecue grill).

**11.14 Drainage.** No Owner shall alter the direction of natural drainage from his or her Lot, nor shall any Owner increase the amount of natural storm run-off leaving his or her Lot.

**11.15 Clotheslines Prohibited.** Clotheslines are prohibited on any portion of the Project.

**11.16 No Temporary Structures.** Unless approved in writing by the ACC solely in connection with the construction of authorized Improvements, no tent, trailer, shack, storage shed or similar temporary shelter or structure shall be constructed, erected, installed or placed upon any portion of any Lot. Any such temporary shelter or structure may only be used for the storage of construction equipment and/or materials and must be removed upon completion of construction of the Dwelling or written demand of the ACC, whichever occurs first.

**11.17 Storage Sheds.** Except for temporary structures as may be approved by the ACC pursuant to Section 11.16, no temporary or permanent shack, shed, barn, outhouse, trailer, or any similar freestanding or "lean to" shelter or structure may be constructed, erected, installed or placed upon any portion of any Lot.

**11.18 Kennels.** No kennels or dog runs may be constructed, erected, installed or placed upon any portion of any Lot.

**11.19 RVs, Campers, Boats, Trailers and Commercial Trucks.** No recreational vehicles, motor homes, mobile homes, boats, snowmobiles, trail bikes, motorcycles, commercial vehicles, trailers (including, without limitation, travel trailers, tent trailers and boat trailers), camper shells, detached campers, all-terrain vehicles, golf carts, or off-road vehicles shall be parked or maintained on any portion of any Lot (except in a garage). The vehicles, vessels and trailers listed and described in the previous sentence may be temporarily parked on streets located within the Community subject to the Rules and Regulations as adopted by the Board. Notwithstanding the foregoing, cars, light trucks (having a one-ton rating or less), and non-commercial vans may be parked in garages or driveways at any time without violating this Section 11.19. The Association shall have the right to have any vehicle, vessel or trailer that is parked, kept, or maintained on any portion of the Community, including any street, in violation of this Section 11.19 or any provision of the Rules and Regulations, towed away at the sole cost and expense of the Owner of such vehicle, vessel or trailer.

**11.20 Motor Vehicles Restricted to Streets.** Subject to the restrictions set forth in other provisions of this Declaration and/or the Rules and Regulations, no motor vehicle may be operated or parked on any portion of the Project except on streets and driveways. No snowmobiles or motorcycles will be operated on any Lot except for ingress and egress or while loading the equipment for lawful transport on public streets.

**11.21 No Unsightliness.** No unsightliness shall be permitted on any Lot. This shall include, without limitation, the open storage of any building materials (except during the construction of any Dwelling); open storage or parking of farm or construction equipment, boats, campers, boats, snowmobiles, trail bikes, motorcycles, trailers, trucks larger than pick-up trucks (except during periods of actual loading and unloading), or inoperable motor vehicles; accumulations of lawn or tree clippings or trimmings; accumulations of construction debris or waste; household refuse or garbage except as stored in tight containers in an enclosure such as a garage; lawn or garden furniture except during the season of use; and the storage or accumulation of any other material, vehicle, or equipment on the Lot in a manner that it is visible from any other Lot or any street.

**11.22 No Fill-Dirt or Debris.** No fill-dirt or debris of any kind or any quantity may be deposited or stored on any portion of any Lot except for the temporary depositing of fill-dirt on a Lot as part of the construction of a Dwelling as approved by the Architectural Control Committee in advance and in writing. Any Owner who deposits, or allows the depositing, of any fill-dirt or other debris on his or her Lot shall be solely and strictly liable for any damage that such fill-dirt or other debris may cause to any other portion of the Project (*e.g.* rainwater causing fill-dirt to wash into other Lots or into Common Area or streets).

### **11.23 Communication Devices**

The installation or use, on or in any portion of the Project, of any broadcasting, receiving, satellite and/or wireless signal dishes, antennas or similar devices (collectively, "**Communication Devices**") that are not permitted and/or regulated by the Federal Communications Commission ("FCC") is prohibited. Communication Devices that are one meter in diameter or less, and designed to receive direct broadcast satellite service, including direct-to-home satellite service, and/or receive or transmit any wireless signals, may be installed only to the extent and in locations that (a) comply with Section 11.23.1, and (b) are clearly permitted under applicable local, state or federal law.

**11.23.1 Dwellings.** Any Communication Devices that are in any way placed, constructed or attached upon any Dwelling must be positioned, maintained and used in a safe and attractive manner and location as reasonably determined by the Board.

**11.23.2 Common Areas.** Owners are strictly prohibited from constructing or erecting any Communication Device(s) upon any portion of the Common Area.

**11.23.3 Liability and Insurance.** Owners are responsible for any injury or damage to persons or property caused by their Communication Device(s). Each Owner's homeowner insurance policy must adequately cover any potential liabilities associated with the use any such Communication Device.

**11.23.4 FCC Rules.** All Communication Device installations must be performed in complete compliance with all applicable laws, rules and regulations. If permits are required, Owner must obtain all such permits prior to installation. The provisions of this Section 11.23 are intended to comply with applicable FCC rules, as may be amended from time to time. All requirements of such FCC rules are hereby incorporated herein. In the event any portion of this Section 11.23 is held to conflict with any applicable laws, rules or regulations, those portions shall be deemed stricken and all other portions of this Section 11.23 regarding Communication Device installation, maintenance, use and insurance will remain in full force and effect.



**11.23.5 Waiver.** No requirements or restrictions of this Section 11.23 may be verbally waived or changed by the Board. Any such waiver or change will be effective only when placed in a writing, specifically stating the nature of the waiver, that has been approved by a majority of the Board. If any Owner receives the benefit of any waiver or change related to the provisions of this Section 11.23, it shall be that Owner's responsibility and obligation to keep and safeguard the written waiver or change and to produce it upon any future request of the Board.

**11.24 No Transient Lodging Uses.** The Lots are to be used for residential housing purposes only, and shall not be rented in whole or in part for transient lodging purposes, boarding house, a bed and breakfast, or other uses for providing accommodations to travelers. No leases of any Dwelling on a Lot, shall be for a period of less than 30 days. No Dwelling on a Lot shall be subjected to timeshare or time interval ownership.

**11.25 Effect on Insurance.** Nothing shall be done or kept in any Dwelling or in the Common Areas that may increase the rate of insurance on any portion of the Project without the prior written consent of the Board. No Owner shall permit anything to be done or kept in his or her Dwelling or in the Common Areas which will result in the cancellation of insurance of the Project or any portion of the Project, or which would be in violation of any applicable local, state or federal law.

**11.26 Board Rules / Fines.** The Board may, by rule or regulation, adopt, clarify, promulgate and/or enforce further requirements or restrictions regarding the use of any portion of the Project in order to ensure compliance with the general guidelines of this Article 11 and any other provisions of the Governing Documents. The Board must place such Rules and Regulations in writing, and must furnish or make available to the Owners a complete copy of such Rules and Regulations.

Pursuant to Section 57-8a-208 of the Community Act, the Association may impose a fine or fines for violations of any provisions of this Article 11, the Rules and Regulations or any other provisions of the Governing Documents. Each Owner is accountable and responsible for the behavior of his or her tenants, family members, guests, invitees and/or any other occupants of such Owner's Dwelling. Fines levied against such tenants, family members, guests, invitees and/or any other occupants are the responsibility of the Owner.

**11.26.1 Procedures for Assessment of Fines**

**The Board shall assess or impose fines in the following manner:**

(a) Before assessing a fine, the Board must first give the Owner a written warning that:

(i) describes the violation;

(ii) states the rule or provision of the Governing Documents that the Owner's conduct violates or has violated;

(iii) states that the Board may, in accordance with the provisions of Section 57-8a-208 of the Community Act, assess fines against the Owner if a continuing violation is not cured or if the Owner commits similar violations at any time within one (1) year after the day on which the Board gives the Owner the written warning or assesses a fine against the Owner; and

(iv) if the violation is a continuing violation, states a time that is not less than forty-eight (48) hours after the day on which the Board gives the Owner the written warning by which the Owner must cure the violation.

(b) The Board may assess a fine against an Owner if:

- (i) at any time within one year after the day on which the Board gives the Owner a written warning described under Subsection 11.26.1(a), the Owner commits another violation of the same rule or provision identified in the written warning; or
- (ii) for a continuing violation, the Owner does not cure the violation within the time period that is stated in the written warning described under Subsection 11.26.1(a).

(c) After the Board assesses a fine against any Owner under this Section 11.26, the Board may, without further warning, assess an additional fine against the Owner each time the Owner:

- (i) commits a violation of the same rule or provision at any time within one (1) year after the day on which the Board assesses a fine for a violation of the same rule or provision; or
- (ii) allows a violation to continue for ten (10) days or longer after the day on which the Board assesses the fine.

#### 11.26.2 Limitations Regarding Fines

(a) The aggregate amount of fines assessed against any Owner for violations of the same rule or provision of the Governing Documents may not exceed \$500 in any one calendar month.

(b) Any fine assessed by the Board shall:

- (i) be made only for a violation of a rule, covenant, condition, or restriction that is set forth in the Governing Documents;
- (ii) be in the amount provided for in the Governing Documents and in accordance with Subsection 11.26.2(a); and
- (iii) accrue interest and late fees as provided in the Governing Documents.

#### 11.26.3 Informal Hearing

(a) Any Owner who is assessed a fine under this Section 11.26 may request an informal hearing before the Board to dispute the fine no later than thirty (30) days after the day on which the Owner receives notice that the fine is assessed.

(b) At any hearing described under this Subsection 11.26.3, the Board shall:

- (i) provide the Owner with a reasonable opportunity to present the Owner's position to the Board; and
- (ii) allow the Owner, any member of the Board, or any other person involved in the hearing to participate in the hearing by means of electronic communication.

(c) As used in this Section 11.26, the phrase “means of electronic communication” means an electronic system that allows individuals to communicate orally in real time. Such means of electronic communication includes (i) web conferencing, (ii) video conferencing; and (iii) telephone conferencing.

(d) If an Owner timely requests an informal hearing under this Subsection 11.26.3, no interest or late fees may accrue until after the Board conducts the hearing and the Owner receives a final decision.

#### 11.26.4 Appeal

(a) An Owner may appeal any fine assessed under this Subsection 11.26 by initiating a civil action no later than one hundred eighty (180) days after:

(i) if the Owner timely requests an informal hearing under Subsection 11.26.3, the day on which the Owner receives a final decision from the Board; or

(ii) if the Owner does not timely request an informal hearing under Subsection 11.26.3, the day on which the time to request an informal hearing under Subsection 11.26.3 expires.

#### 11.26.5 Delegation of Board Authority

(a) Subject to Subsection 11.26.5(b), the Board may delegate the Board’s rights and responsibilities under this Section 11.26 to a managing agent.

(b) The Board may not delegate the Board’s rights or responsibilities described in Subsection 11.26.3(b).

#### 11.26.6 Fees, Costs and Expenses

The Association shall be entitled to recover reasonable attorney fees, costs and expenses incurred in the enforcement of the Governing Documents, including the enforcement and collection of fines.

#### 11.26.7 Consistency with Community Act Requirements

The procedures set forth under this Section 11.26 are intended to be consistent with the requirements of Section 57-8a-208 of the Community Act as of the date this Declaration is recorded in the Recorder’s Office. The Association and the Board must at all times comply with any amendments to the Community Act that may govern the manner in which fines are required to be assessed, imposed and/or collected.

### **ARTICLE 12 – LANDSCAPING AND WATERING**

**12.1 Landscaping.** Each Owner shall maintain his or her Lot in an attractive and safe manner so as not to detract from the Community. Weeds that are harmful to native plants or improved garden areas, such as Dyer’s Woad, must be kept to a minimum by the Lot Owner.

**12.2 Irrigation/Sprinkler System.** The landscaping plan for each Lot must include an irrigation/sprinkler system that has been approved by the Architectural Review Committee.

**12.3 Outside Watering.** If a secondary water system is provided by the Declarant, the Owner is required to use it exclusively for all outside watering needs and not use any culinary water for outside watering. An approved hookup fee will be due from each Owner for the connection to the secondary water system if it is established by the Declarant in addition to continuing access and usage fees.

**12.4 Culinary Water.** A swimming pool will only be allowed with special written conditions by the Architectural Control Committee due to the high potential use of culinary water. If excessive culinary water is being used over a several month period, the developer reserves the right to investigate the cause and require corrective procedures, including fines for non-compliance.

### ARTICLE 13 - COMMON AREAS

**13.1 Generally.** The Common Areas shall be and are hereby conveyed to the Association subject to this Declaration and subject to appropriate access by governmental, including all law enforcement and fire protection authorities.

**13.2 Conveyance by Declarant.** Notwithstanding anything contained in this Declaration to the contrary, all Common Areas appurtenant to each recorded phase of the Subdivision shall be conveyed to the Association upon recordation of a Plat depicting such common areas, reserving a perpetual, nonexclusive easement for ingress and egress and development access across, under, over and upon such roads, rights of way and utilities located on the Project to and from any real property both (i) owned by the Declarant and (ii) located adjacent to or in the same area of the Project. Said easement being reserved to the Declarant, its successors and assigns, is intended hereby to run with the land in perpetuity to burden the Project for the benefit of Declarant's real property located near or adjacent to the Project, subject to the payment of a prorata share of the costs of maintenance thereof.

**13.3 Maintenance by Association.** The Association shall maintain and keep in good repair the Common Areas with the maintenance of such Common Areas to be funded via the Common Expense Fund as provided in this Declaration. Such maintenance shall include, but need not be limited to, maintenance, repair, and replacement, subject to any insurance then in effect, of all landscaping, other flora, structures, and/or Improvements situated upon the Common Areas and rights of way, including but not limited to water drainage, specialty lights and open spaces. All costs associated with maintenance, repair and replacement of the Common Areas shall be a Common Expense to be allocated among all Lots as part of the Base Assessment.

**13.4 Repair and Reconstruction.** If the damage or destruction to the Common Areas for which insurance proceeds are paid is to be repaired or reconstructed, and such proceeds are not sufficient to defray the cost thereof, the Board of Trustees shall, without the necessity of a vote of the Members, levy a Special Assessment against all Owners on the same basis as provided for Base Assessments. Additional assessments may be made in like manner at any time during or following the completion of any repair or reconstruction.

### 13.5 Damage and Destruction.

13.5.1 Immediately after damage or destruction by fire or other casualty to all or any part of the Common Areas covered by insurance written in the name of the Association, the Board of Trustees or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed Common Areas. Repair or reconstruction, as used in this paragraph, means repairing or restoring the Common Areas to substantially the same condition in which they existed prior to the fire or other casualty, allowing for any changes or improvements necessitated by changes in applicable building codes.

13.5.2 Any damage or destruction to the Common Areas shall be repaired or reconstructed unless the Members representing at least sixty-seven (67%) percent of the total vote of the Association, shall decide within sixty (60) days after the casualty not to repair or reconstruct. If for any reason either the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the costs of repair or reconstruction, or both, are not made available to the Association within said period, then the period shall be extended until such information shall be made available; provided, however, such extension shall not exceed sixty (60) additional days. No Mortgagee shall have the right to participate in the determination of whether the damage or destruction to Common Areas shall be repaired or reconstructed; provided, however, this provision shall not apply to construction Mortgagees providing construction financing for such damaged property.

13.5.3 In the event, that it should be determined in the manner described above that the damage or destruction to the Common Areas shall not be repaired or reconstructed and no alternative improvements are authorized, then and in that event the affected portion of the Common Areas shall be restored to their natural state and maintained by the Association, in a neat and attractive condition.

13.6 Disbursement of Proceeds. If the damage or destruction for which the proceeds of insurance policies are paid is to be repaired or reconstructed, the proceeds, or such portion thereof as may be required for such purpose, shall be disbursed in payment of such repairs or reconstruction as hereinafter provided. Any proceeds remaining after defraying such costs of repair or reconstruction to the Common Areas shall be retained by and for the benefit of the Association and placed in the Reserve Fund. In the event no repair or reconstruction is made, any proceeds remaining after making such settlement as is necessary and appropriate with the affected Owner or Owners and the Mortgagee(s) as their interest may appear, shall be retained by and for the benefit of the Association and placed in the Reserve Fund. This is a covenant for the benefit of any Mortgagee of a Lot and may be enforced by such Mortgagee.

13.7 Condemnation. Whenever all of any part of the Common Areas shall be taken (or conveyed in lieu of and under threat of condemnation by the Board acting on the written direction of Members representing at least two-thirds (2/3) of the total Association vote) by any authority having the power of condemnation or eminent domain, each Owner shall be entitled to notice thereof. The award made for such taking shall be payable to the Association as trustee for all Owners to be disbursed as follows: if the taking involves a portion of the Common Areas on which Improvements have been constructed, then, unless within sixty (60) days after such taking

Declarant and Members representing at least sixty-seven percent (67%) of the total vote of the Association shall otherwise agree, the Association shall restore or replace such Improvements so taken on the remaining land included in the Common Areas to the extent lands are available therefor, in accordance with plans approved by the Board of Trustees of the Association. If such Improvements are to be repaired shall apply. If the taking does not involved any Improvements of the Common Areas, or if there is a decision made not to repair or restore, or if there are net funds remaining after any such restoration or replacement is completed, then such award or net funds shall be disbursed to the Association and used for such purposes as the Board of Trustees of the Association shall determine.

#### **ARTICLE 14 - ASSESSMENTS**

14.1 There are hereby created Assessments for Association expenses as may from time to time specifically be authorized by the Board of Trustees to be commenced at the time and in the manner set forth in this Declaration. There shall be two (2) types of Assessments: (a) Base Assessments to fund Common Expenses for the benefit of all Members of the Association; and (b) Special Assessments as described in this Declaration.

14.2 Base Assessments shall be equally levied on all Lots that are owned by any Owners other than the Declarant. Special Assessments may be levied on Lots as provided in this Declaration. Each Owner, other than the Declarant, by acceptance of a deed or recorded contract of sale to a Lot, is deemed to covenant and agree to pay any and all Assessments that may be authorized by the Board of Trustees and/or levied by the Association.

14.3 All Assessments, together with interest at a rate not to exceed the highest rate allowed by Utah law as computed from the date of delinquency first occurs, costs, and reasonable attorney fees, shall be a charge on the land and shall be a continuing lien upon the Lot against which each Assessment is made. Each such Assessment, together with interest, costs, and reasonable attorney fees, shall also be a joint and several personal obligation of any Person(s) who was/were the Owner(s) of such Lot at the time the Assessment arose, and their grantee shall also be jointly and severally liable for such portion thereof as may be due and payable at the time of conveyance, except no first Mortgagee, nominee of the Mortgagee, or third party purchaser who obtains title to a Lot pursuant to the remedies provided in the Mortgage shall be liable for unpaid Assessments which accrued prior to such acquisition of title.

14.4 Within five (5) business days after receipt of a written request for Association payoff information, signed by the Owner of the Lot for which the payoff information is requested and identifying the person to whom the payoff information may be released, the Association shall provide the requested payoff information in connection with the financing, refinancing, or closing of a Owner's sale of a Lot within the Project. The Association may require the advance payment of a processing fee not to exceed \$50.00 for the issuance of such information.

14.5 Except as otherwise specifically set forth herein (e.g. Special Assessments that require the affirmative vote or written consent of the Members per Section 17.1) the Board has the sole authority and discretion to determine how and when Assessments are to be imposed, paid and/or collected. All payments received by the Association from Owners shall first be applied to Additional Charges (if any), then to past due Assessments (if any), and then to currently due Assessments. Unless the Board otherwise provides, the Base Assessment shall be paid in yearly installments.

14.6 No Owner may waive or otherwise exempt himself or herself from liability for the Assessments provided for herein, including by way of illustration and not limitation, by non-use of Common Areas or abandonment of the Lot. The obligation to pay Assessments is a separate and independent covenant on the part of each Owner. No diminution or abatement of Assessment or set-off shall be claimed or allowed by reason of any alleged failure of the Association or Board to take some action or perform some function required to be taken or performed by the Association or Board under this Article or by the Bylaws, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or from any action taken to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority.

14.7 The Association is specifically authorized to enter into subsidy contracts or contracts for "in kind" contribution of services or materials or a combination of services and materials with Declarant or other entities for the payment of some portion of the Common Expenses.

14.8 All Assessments and liens created to secure the obligation to pay Assessments are superior to any homestead exemptions to which an Owner may be entitled which, insofar as it adversely affects the Association's lien for unpaid Assessments, each Owner by accepting a deed or other document of conveyance to a Lot hereby waives.

#### **ARTICLE 15 – DATE OF COMMENCEMENT OF ASSESSMENTS**

The Assessments provided for herein shall commence as to each Lot on the first day of the first month following: (i) the date of conveyance of the Lot by Declarant; or (ii) the effective date of the first Annual Budget, whichever is later. Assessments shall be due and payable in a manner and on a schedule as the Board of Trustees may provide. The first Base Assessment shall be adjusted according to the number of days remaining in the fiscal year at the time Assessments commence on the Lot.

#### **ARTICLE 16 – COMPUTATION OF BASE ASSESSMENT**

16.1 It shall be the duty of the Board, at least sixty (60) days before the beginning of each fiscal year, to prepare a budget covering the estimated Common Expenses of the Association during the coming year (the "Annual Budget"). The Annual Budget shall include a Reserve Fund Line Item as set forth under Section 19.8 of this Declaration.

16.2 The Base Assessment to be levied for the coming year against each Lot shall be computed by dividing the budgeted Common Expenses by the total number of Lots of the Project that are owned by Owners other than the Declarant. The Board shall cause a copy of the Annual Budget and notice of the amount of Base Assessment to be levied against each Lot for the upcoming year to be delivered to each Owner no less than thirty (30) days prior to the beginning of the fiscal year. Such Annual Budget and Base Assessment shall become effective unless disapproved at a meeting of the Members by the vote of Members or their alternates representing at least a majority of the total Class "A" vote in the Association, and/or unless disapproved by the Class "B" Member, if such membership exists. There shall be no obligation to call a meeting for the purpose of considering the Annual Budget except on petition of the Members as provided for in the Bylaws.

16.3 Notwithstanding the foregoing, however, in the event the proposed Annual Budget is disapproved or the Board fails for any reason so to determine the Annual Budget for any year, then and until such time as an Annual Budget shall have been determined as provided herein, the Annual Budget in effect for the immediately preceding year shall continue for the current year.

16.4 As provided under Section 57-8a-215(5) of the Community Act, during the entire Class "B" Control Period, the Owners may not disapprove any Annual Budget.

#### **ARTICLE 17 – SPECIAL ASSESSMENTS**

In addition to the Base Assessment, the Association may levy a Special Assessment or Special Assessments against all Lots from time to time. Except as otherwise specifically provided in this Declaration or under applicable law, such Special Assessment shall require the affirmative vote or written consent of Members representing at least fifty-one (51%) percent of the Class "A" vote in the Association and the affirmative vote or written consent of the Class "B" Member, if such exists. The obligation to pay Special Assessments shall be computed on the same basis as for Base Assessments. Special Assessments shall be payable in such manner and at such times as determined by the Board, and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved, if the Board so determines.

#### **ARTICLE 18 – PAYMENT OF ASSESSMENTS UPON SALE OF LOT**

Upon acquisition of record title to a Lot by the first purchaser thereof other than Declarant or an Owner who purchases solely for the purpose of constructing a Dwelling thereon for resale, the purchaser/new Owner shall pay any and all Assessments that may be due and payable on such Lot as of the date of purchase. The amount of the Assessments that are due and payable, if any, shall be deposited into the purchase and sales escrow and disbursed therefrom to the Association for use in covering Common Expenses and other expenses incurred by the Association as set forth in the Governing Documents.



## ARTICLE 19 – LIENS AND APPOINTMENT OF TRUSTEE

19.1 The Association shall have a lien on the interest of the Owner in the Lot for (A) any delinquent Assessment or Additional Charges, (B) fees, charges, and costs associated with collecting any delinquent Assessment, including, court costs and reasonable attorney fees, late charges, interest, and any other amount the Association is entitled to recover under the Governing Documents, the Acts, or an administrative or judicial decision, and (C) any fine the Association imposes against the Owner of the Lot. The recording of this Declaration constitutes record notice and perfection of the lien described in this Section 18.1. A lien under this Section is not subject to Utah Code Annotated Title 78B, Chapter 5, Part 5, Utah Exemptions Act, as may be amended or supplemented. If an Assessment is payable in installments, the lien described in this Section is for the full amount of the Assessment from the time the first installment is due, unless the Association otherwise provides in the notice of Assessment. A lien under this Section has priority over each other lien and encumbrance on a Lot except:

- (1) a lien or encumbrance recorded before this Declaration was recorded;
- (2) a first or second security interest on the Lot secured by a deed of trust or mortgage that is recorded before a recorded notice of lien by or on behalf of the Association; or
- (3) a lien for real estate taxes or other governmental assessments or charges against the Lot.

19.2 If the delinquent Assessments remain unpaid, the Association may, as determined by the Board, institute suit to collect the amounts due and/or to foreclose the lien. Suit to recover a money judgment for the unpaid Assessments shall be maintainable without foreclosure or waiving the lien securing the same.

19.3 In order to enforce a lien for any delinquent Assessment, or any of the other fees, charges, costs or fines described under this Declaration, the Association may cause a Lot to be sold through nonjudicial foreclosure as though the lien were a deed of trust, in the manner provided by Utah Code Annotated §57-1-24 through §57-1-27 and the Acts, or foreclose the lien through a judicial foreclosure in the manner provided by law for the foreclosure of a mortgage and the Acts. For purposes of a nonjudicial or judicial foreclosure, the Association is considered to be the beneficiary under a trust deed and the Owner of the Lot being foreclosed is considered to be the trustor under a trust deed. An Owner's acceptance of the Owner's interest in a Lot constitutes a simultaneous conveyance of the Lot in trust, with power of sale, to the trustee designated as provided in this Section for the purpose of securing payment of all amounts due under this Declaration and the Acts. In any such judicial or nonjudicial foreclosure, the Owner shall be required to pay the costs and expenses of such proceeding (including reasonable attorneys' fees) and such costs and expenses shall be secured by the lien being foreclosed. The Owner shall also be required to pay to the Association any Assessments against the Lot which shall become due during the period of any such judicial or nonjudicial foreclosure, and all such Assessments shall be secured by the lien being foreclosed. The Board shall have the right and power in behalf of the Association to bid in at any foreclosure sale, and to hold, lease, mortgage, or convey the subject Lot in the name of the Association.

19.4 If the Board elects to foreclose the lien in the same manner as foreclosures in deeds of trust, then the Owner by accepting a deed to the Lot hereby irrevocably appoints the trustee identified under Section 2.8 of this Declaration, and hereby confers upon said trustee the power of sale set forth with particularity in Utah Code Annotated, Section 57-1-23 (1953), as amended or supplemented. In addition, each Owner hereby transfers in trust to said trustee all of his or her right, title and interest in and to the Lot for the purpose of securing his or her performance of the obligations set forth herein.

19.5 At least thirty (30) calendar days before initiating a nonjudicial foreclosure, the Association shall provide notice to the Owner of the Lot that is the intended subject of the nonjudicial foreclosure. The notice shall (A) notify the Owner that the Association intends to pursue nonjudicial foreclosure with respect to the Owner's Lot to enforce the Association's lien for an unpaid Assessment; (B) notify the Owner of the Owner's right to demand judicial foreclosure in the place of nonjudicial foreclosure; (C) be sent to the Owner by certified mail, return receipt requested; and (D) be in substantially the following form:

**NOTICE OF NONJUDICIAL FORECLOSURE AND RIGHT TO DEMAND JUDICIAL FORECLOSURE.** The Chalets at Ski Lake Owners Association, Inc., which is the association for the project in which your lot is located, intends to foreclose upon your lot and allocated interest in the common areas using a procedure that will not require it to file a lawsuit or involve a court. This procedure is being followed in order to enforce the association's lien against your lot and to collect the amount of an unpaid assessment against your lot, together with any applicable late fees and the costs, including attorney fees, associated with the foreclosure proceeding. Alternatively, you have the right to demand that a foreclosure of your property be conducted in a lawsuit with the oversight of a judge. If you make this demand and the association prevails in the lawsuit, the costs and attorney fees associated with the lawsuit will likely be significantly higher than if a lawsuit were not required, and you may be responsible for paying those costs and attorney fees. If you want to make this demand, you must state in writing that "I demand a judicial foreclosure proceeding upon my lot," or words substantially to that effect. You must send this written demand by first class and certified U.S. mail, return receipt requested, within 15 days after the date of the postmark on the envelope in which this notice was mailed to you. The address to which you must mail your demand is [insert the current address of the Association for receipt of a demand].

19.6 All rights and remedies of the Association shall be cumulative and the exercise of one right or remedy shall not preclude the exercise of any other right or remedy. The "One Action Rule" shall not be a defense to the enforcement of all rights and remedies of the Association.

## ARTICLE 20 – RESERVE FUND

20.1 Pursuant to Section 57-8a-211(2) of the Community Act, the Board of Trustees shall cause a reserve analysis to be conducted no less frequently than every six (6) years. The Board shall thereafter review and, if necessary, update a previously conducted reserve analysis no less frequently than every three (3) 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.

20.2 As set forth under Section 57-8a-211 of the Community Act, the purpose of the reserve analysis is to determine: (a) the need for a Reserve Fund to accumulate money to cover the cost of repairing, replacing, or restoring Common Areas and/or Common Area Improvements that have a useful life of three (3) years or more and a remaining useful life of less than thirty (30) years, if the cost cannot reasonably be funded from the Annual Budget (including the Common Expense Fund) or other funds of the Association; and (b) the appropriate amount of the Reserve Fund.

20.3 The contents of the reserve analysis, and the manner in which the reserve analysis is reported to the Owners, must comply with the requirements of the Community Act, as may be periodically amended. The Board may conduct a reserve analysis itself or may engage a reliable person or organization, as determined by the Board, to conduct the reserve analysis.

20.4 The Board may not use money in the Reserve Fund:

(a) For daily maintenance expenses unless a Majority of the Owners vote to approve the use of Reserve Fund money for that purpose; or

(b) For any purpose other than the purpose for which the Reserve Fund was established.

20.5 Based on the results of the reserve analysis, the Board shall create a Reserve Fund into which the Board shall cause to be deposited those Assessments, or portions thereof, that are collected from Owners for the purpose of funding the Reserve Fund. If the amount collected by the Association via the Reserve Fund Line Item is insufficient to fund the Reserve Fund, the Board may, without the necessity of a vote of the Members, levy a Special Assessment against all Owners (which Special Assessment shall be collected on the same terms and conditions as other Assessments) in an amount sufficient to fund the Reserve Fund according to the findings of the reserve analysis. The Board shall maintain the Reserve Fund separate from other funds of the Association. This Article may not be construed to limited the Board from prudently investing Reserve Fund monies.

20.6 As used herein “reserve analysis” means an analysis to determine:

(a) The need for the Reserve Fund to accumulate money to cover the cost of repairing, replacing, and restoring Common Areas and facilities that have a useful life of three (3) years or more, but excluding any cost that can reasonably be funded from the Annual Budget or other funds of the Association; and/or

(b) The appropriate amount of the Reserve Fund.

20.7 As set forth under Section 57-8a-211 of the Community Act, the provisions of this Article 20 do not apply during the entire Class "B" Control Period.

20.8 As required under Subsection 57-8a-211(6) of the Community Act, In calculating, formulating or determining its Annual Budget, the Association must include a "**Reserve Fund Line Item**" which shall be used to fund the Reserve Fund. The Reserve Fund Line Item shall be in: (A) an amount the Board determines, based upon the reserve analysis, to be prudent; or (B) a higher amount if the Board reasonably determines that such higher amount is required in order to properly maintain or replenish the Reserve Fund as a result of, for example and without limitation, an unexpected depletion of the Reserve Fund due to the repair, replacement, or restoration of Common Areas and/or Common Area Improvements that were not anticipated or accounted for as part of the Association's most recent reserve analysis.

20.9 As required under Subsection 57-8a-211(7) of the Community Act, no later than forty-five (45) calendar days after the day on which the Association adopts the Annual Budget, the Reserve Fund Line Item may be vetoed by the Owners (at a special meeting called by the Owners for the purpose of voting whether to veto the Reserve Fund Line Item) holding at least fifty-one percent (51%) of all votes vested in the Members. If the Owners veto the Reserve Fund Line Item and a Reserve Fund Line Item exists in a previously approved Annual Budget that was not vetoed, the Association shall fund the Reserve Fund in accordance with the Reserve Fund Line Item from the previously approved Annual Budget.

20.10 If the Association fails to comply with the requirements of Section 57-8a-211 of the Community Act and/or any provisions of this Declaration pertaining to the Reserve Fund Line Item, and the Association fails to remedy such noncompliance within the time period specified under Section 57-8a-211 of the Community Act, any Owner may file an action in state court for damages or remedies pursuant to Section 57-8a-211 of the Community Act.

#### ARTICLE 21 - INSURANCE

21.1 The Association's Board of Trustees, or its duly authorized agent, shall have the authority to and shall obtain blanket all-risk casualty insurance, if reasonably available, for all insurable Improvements on the Common Areas. If blanket all-risk coverage is not available, then at a minimum, an insurance policy providing fire and extended coverage shall be obtained. This insurance shall be in an amount sufficient to cover one hundred (100%) percent of the replacement cost of any repair or reconstruction in the event of damage or destruction to the Common Areas from any insured hazard.

21.2 The Board shall also obtain a public liability policy covering the Common Areas, the Association, and its Members for all damage or injury caused by the negligence of the Association or any of its Members or agents, their invitees, guest, successor or assigns. The public liability policy shall be in an adequate amount as determined by the Board from time to time.

21.3 Premiums for all insurance on the Common Areas shall be Common Expenses of the Association and shall be included in the Base Assessment.

21.4 All insurance coverage obtained by the Board of Trustees shall be written in the name of the Association as trustee for the respective benefited parties, as further identified in (b) below. Such insurance shall be governed by the provisions hereinafter set forth:

(a) All policies shall be written with a company licensed to do business in Utah which holds a Best's rating of A or better and is assigned a financing size category of XI or larger as established by A.M. Best Company, Inc., if reasonably available, or if not available, the most nearly equivalent rating.

(b) All policies on the Common Areas shall be for the benefit of the Association, its Members, and Mortgagees providing construction financing on the Common Areas.

(c) Exclusive authority to adjust losses under policies obtained by the Association on the Properties shall be vested in the Association's Board of Trustees; provided, however, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto.

(d) In no event shall the insurance coverage obtained and maintained by the Association's Board of Trustees hereunder be brought into contribution with insurance purchased by individual Owners, occupants, or their Mortgagees.

(e) All casualty insurance policies shall have an inflation guard endorsement, if reasonably available, and an agreed amount endorsement with an annual review by one or more qualified persons, at least one of whom must be in the real estate industry and familiar with construction in the Weber County, State of Utah area.

(f) The Association's Board of Trustees shall be required to make every reasonable effort to secure insurance policies that will provide for the following:

(i) a waiver of subrogation by the insurer as to any claims against the Association's Board of Trustees, its manager, the Owners, and their respective tenants, servants, agents, and guests;

(ii) a waiver by the insurer of its rights to repair and reconstruct, instead of paying cash;

(iii) a statement that no policy may be canceled, invalidated, suspended, or subject to non-renewal on account of any one or more individual Owners;

(iv) a statement that no policy may be canceled, subject to non-renewal on account of the conduct of any Trustee, officer, or employee of the Association or its duly authorized manager without prior demand, in writing, delivered to the Association to cure the defect and the allowance of a reasonable time thereafter within which the defect may be cured by the Association, its manager, any Owner, or any Mortgagee;

(v) that any "other insurance" clause in any policy exclude individual Owners' policies from consideration; and

(vi) that the Association will be given at least thirty (30) days' prior written notice of any cancellation, substantial modification, or non-renewal.

21.5 In addition to the other insurance required by this Section, the Board shall obtain, as a Common Expense, worker's compensation insurance, if and to the extent required by law; Trustees' and officers' liability coverage, if reasonably available, a fidelity bond or bonds on Trustees, officers, employees, and other Persons handling or responsible for the Association's funds, if reasonably available, and flood insurance, if required. The amount of fidelity coverage shall be determined in the Trustees' best business judgment. Bonds shall contain a waiver of all defenses based upon the exclusion of persons serving without compensation and shall require at least thirty (30) days' prior written notice to the Association of any cancellation, substantial modification, or non-renewal.

#### **ARTICLE 22 – BOUNDS**

During the Class "B" Control Period, Declarant reserves the right to change at any time the bounds and the area of any lot in the Expandable Area, provided such change does not adversely affect the access to any Lot sold to a third party, and that such change has been approved by applicable county, state or federal agencies or entities and is done in accordance with the various county, state and/or federal regulations controlling this Subdivision.

#### **ARTICLE 23 – SUBORDINATION OF THE LIEN TO INSTITUTIONAL FIRST AND SECOND MORTGAGES**

The lien of Assessments, including interest, late charges (subject to the limitations of Utah law), and costs (including attorney fees) provided for herein, shall be subordinate to the lien of any institutional first or second Mortgage upon any Lot. The sale or transfer of any Lot shall not affect the Assessment lien. However, the sale or transfer of any Lot pursuant to foreclosure of an institutional first or second Mortgage, shall extinguish the lien of such Assessments as to payments which became due prior to such sale or transfer; provided, that to the extent there are any proceeds of the sale on foreclosure of such Mortgage or by exercise of such power of sale in excess of all amounts necessary to satisfy all indebtedness secured by and owed to the holder of such Mortgage, the lien shall apply to such excess. No sale or transfer shall relieve such Lot from lien rights for any Assessments thereafter becoming due. Where the Mortgagee holding an institutional first or second Mortgage of record or other purchaser of a Lot obtains title pursuant to remedies under the Mortgage, its successors and assigns shall not be liable for the share of the Common Expenses or Assessments by the Association chargeable to such Lot which became due prior to the acquisition of title to such Lot by such acquirer. Such unpaid share of Common Expenses or Assessments shall be deemed to be Common Expenses collectible from Owners of all the Lots, including such acquirer, its successors and assigns. No foreclosure, sale or transfer shall relieve any Owner who was the Owner prior to such foreclosure, sale or transfer from personal liability for any Assessments due and owing prior to such foreclosure, sale or transfer.

#### ARTICLE 24 - EXPANSION/REDUCTION

24.1 Declarant anticipates that the Project may be expanded to include the Expandable Area, as defined in this Declaration, in the sole discretion of Declarant, his successors, heirs or assigns. Declarant hereby reserves to itself, its successors, heirs and assigns, the right to expand the Project, without the consent of the Lot Owners and without the consent of the Association, to include additional Common Areas and structures and Lots which shall be compatible with the structures and Lots of the Project in terms of quality of construction, the principal materials to be used and architectural style, to be constructed in the Expandable Area, or any portion thereto.

- (a) Said expansion shall be accomplished by the recordation of a Plat(s) by the Declarant, his successors, heirs or assigns, in the office of the County Recorder of Weber County, Utah, no later than September 30, 2020. Upon the recordation of a Plat(s), each Lot created by said Plat shall be subject to the terms and conditions of this Declaration without the need to file a Supplemental Declaration or take further administrative action. Notwithstanding, a Supplemental Declaration may be filed, if so desired by Declarant, his successors, heirs or assigns, to modify the terms and conditions of this Declaration.

24.2 Declarant also hereby reserves to itself, its successors, heirs and assigns, the right to reduce the Project, without the consent of the Lot Owners and without the consent of the Association, and remove any of the unrecorded phases in the Expandable Area from being subject to the terms and conditions of this Declaration, with said reduction becoming effective upon the recordation of a "Notice of Removal of Expandable Area" in the office of the County Recorder of Weber County, Utah, no later than September 30, 2020.

24.3 Liens. Liens arising in connection with the Declarant's ownership of and construction of Improvements upon any property that may be added to the Project must not adversely affect the rights of existing Lot Owners or the priority of first or second mortgages on any Lots. All taxes and other Assessments relating to such property covering any period prior to the addition of any property to the Project must be paid or otherwise satisfactorily provided for by the Declarant.

24.4 Adjacent Property. Subject to approval by the County, the Declarant and/or Association may, via the recording of a Supplemental Declaration, expand the Project to include certain real property located immediately adjacent to the Property, including, for example and without limitation, that certain parcel of land located between Lot 28 and Lots 19/20 in order to provide such parcel with ingress/egress via the public streets located within the Project.

#### ARTICLE 25 - CERTAIN EXCEPTIONS FOR DECLARANT ACTIVITIES

Nothing in this Declaration shall be understood or construed to prevent Declarant, Declarant's successors or assigns, or the employees, contractors, or subcontractors of Declarant or Declarant's successors or assigns, from doing on any part or parts of the Subdivision whatever they determine may be reasonably necessary or advisable in connection with the development of

the Subdivision including, but not limited to, constructing and maintaining such structures, including a construction trailer and/or construction compound, model homes, which may or may not be occupied as residences, as may be reasonably necessary for the completion of the development of the Project, conducting the business of establishing the Project as a residential community in the disposing of homesites and Lots by sale, lease or otherwise; and the maintaining of such sign or signs on any of the homesites or Lots owned or controlled by Declarant or Declarant's successors and assigns, as may be reasonably necessary or advisable in connection with providing information to potential buyers, sale, lease, or otherwise of Project homesites and Lots. As used in this Section, the words "Declarant's successors and assigns" specifically exclude individual purchasers of improved Lots.

#### **ARTICLE 26 – AMENDMENTS TO DECLARATION**

Subject to prior notification of the Lot Owners, this Declaration may be modified by the Declarant or Declarant's successors and assigns during the Class "B" Control Period at the sole discretion of the Declarant. Thereafter, as provided under Section 57-8a-104 of the Community Act, this Declaration may be modified by the affirmative vote of the Members representing sixty-seven (67%) percent of the total votes of the Association.

#### **ARTICLE 27 – RULE-MAKING**

The Board from time to time and subject to the provisions of this Declaration may adopt, amend, repeal and enforce Rules and Regulations governing, among other things, (a) the use of the Common Areas; (b) the use of any facilities owned by the Association; (c) the collection and disposal of refuse; (d) the maintenance of animals within the Project; (e) other matters concerning the use and enjoyment of the Project and the conduct of residents; and additional architectural guidelines, as deemed necessary by the Board.

#### **ARTICLE 28 – ENFORCEMENT**

The Board of Trustees, Declarant or Declarant's successors and assigns, and any person who now owns or who may hereafter own property in the Project, are specifically given the right to enforce these covenants through any proceeding, at law or in equity, against any person or persons violating or threatening to violate such restrictions, and to enjoin or prohibit any such violation and to recover any damages suffered by them from any violation of such restrictions. This specific right of enforcement shall be cumulative and is not intended to include any other remedy that may be available to any person in law or in equity. Any person or persons who bring a successful action to enforce these covenants shall be entitled to recover their reasonable attorney fees incurred in prosecuting such an action.



### **ARTICLE 29 – INDEMNIFICATION**

The Association shall indemnify every officer, board member, Trustee and committee member against any and all expenses, including attorney fees, reasonably incurred by or imposed upon such officer, board members, Trustee, or committee member in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Trustees to which he or she may be a party by reason of being or having been an officer, board member, Trustee, or committee member. The officers, board members, Trustees, and committee members shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers, board members and Trustees 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, board members or Trustees may also be Members of the Association), and the Association shall indemnify and forever hold each such officer, board member and Trustee 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 not be exclusive of any other rights to which any officer, board member Trustee or committee member, or former officer, Trustee, or committee member may be entitled. The Association shall, as a common expense, maintain adequate general liability and officers' and Trustees' liability insurance to fund this obligation, if such insurance is reasonably available.

### **ARTICLE 30 – EASEMENTS FOR ENCROACHMENTS**

There shall be reciprocal appurtenant easements of encroachment as between each Lot and such portion or portions of the Common Area adjacent thereto due to the unintentional placement or settling or shifting of the Improvements constructed, reconstructed, or altered thereon (in accordance with the terms of these restrictions) to a distance of not more than three (3) feet, as measured from any point on the common boundary along a line perpendicular to such boundary at such point; provided, however, in no event shall an easement for encroachment exist if such encroachment occurred due to willful and knowing conduct on the part of an Owner, tenant, or the Association.

### **ARTICLE 31 – SEVERABILITY**

Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provision, which shall remain in full force and effect.

### **ARTICLE 32 – CONFLICTING PROVISIONS**

In the event that any provision of this Declaration conflicts with any provision of the laws of the State of Utah, such conflicting provision of this Declaration shall be null and void upon final court determination to such effect, but all other provisions of this Declaration shall remain in full force and effect. In the case of any conflict between the Articles of Incorporation and this Declaration, the Articles of Incorporation shall control; and in the case of any conflict between this Declaration and the Bylaws, this Declaration shall control.

**ARTICLE 33 - LITIGATION**

No judicial or administrative proceeding shall be commenced or prosecuted by the Association unless approved by a vote of sixty-seven (67%) percent of the Members. In the case of such a vote, and notwithstanding anything contained in this Article or this Declaration or Bylaws to the contrary, this Section shall not apply, to: (a) actions brought by the Association to enforce the provisions of this Declaration (including, without limitation, the foreclosure of liens); (b) the imposition and collection of Assessments; (c) proceedings involving challenges to ad valorem taxation; or (d) counterclaims brought by the Association in proceedings instituted against it. This Section shall not be amended unless such amendment is made by Declarant or is approved by the percentage votes, and pursuant to the same procedures, necessary to institute proceedings as provided above.

**ARTICLE 34 - SECURITY**

The Owners' Association will strive to maintain the Project as a safe, secure, residential environment. HOWEVER, NEITHER THE ASSOCIATION NOR THE DECLARANT SHALL BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF FAILURE TO PROVIDE ADEQUATE SECURITY OR INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN. ALL OWNERS, TENANTS, GUESTS, AND INVITEES OF ANY OWNER, AS APPLICABLE, ACKNOWLEDGE THAT THE ASSOCIATION AND THE DECLARANT AND COMMITTEES ESTABLISHED BY ANY OF THE FOREGOING INVITEES ARE NOT INSURERS AND THAT EACH OWNER, TENANT, GUEST, AND INVITEE ASSUMES ALL RISK OF LOSS OR DAMAGE TO PERSONS, LOTS, AND TO THE CONTENTS OF LOTS AND FURTHER ACKNOWLEDGE THAT THE DECLARANT HAS MADE NO REPRESENTATIONS OR WARRANTIES NOR HAS ANY OWNER, TENANT, GUEST, OR INVITEE RELIED UPON ANY REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE RELATIVE TO ANY SECURITY MEASURES RECOMMENDED OR UNDERTAKEN.

Declarant has executed THIS THIRD AMENDED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS AND RESERVATION OF EASEMENTS FOR THE CHALETS AT SKI LAKE the day and year first above written.

**DECLARANT:**

**VALLEY ENTERPRISE INVESTMENT COMPANY, LLC**  
**a Utah limited liability company**

By: 

Name: Ray Bowden

Title: Managing Manager

STATE OF UTAH )  
 : ss.  
COUNTY OF WEBER )

On September 30, 2016, appeared before me Ray Bowden in his capacity as the Managing Member of Valley Enterprise Investment Company, LLC and acknowledged that he executed the foregoing "Fourth Amended and Restated Declaration of Covenants, Conditions and Restrictions for the Chalets at Ski Lake" in such capacity.

Aubree Wilder Notary Public

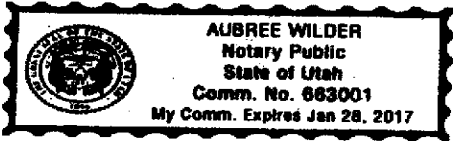


Exhibit "A"  
to  
Declaration

Legal Description of the Property

The real property that is subject to and burdened by this Declaration is described as follow:

Any and all real property (including, without limitation, any and all Lots and Common Areas) and any easements or improvements located upon such real property (including, without limitation, any and all Dwellings, Common Area Improvements, and streets) located in that certain residential subdivision located in Weber County, State of Utah, commonly known as ""The Chalets at Ski Lake"" as more particularly identified in each of the following Plat Maps, as such Plat Maps may be substituted or amended:

"The Chalets at Ski Lake Phase 1" which was recorded in the Weber County Recorder's Office on April 20, 2005 in Book 261 at Page 13 as Entry No. 2098060;

"The Chalets at Ski Lake Phase 2" which was recorded in the Weber County Recorder's Office on August 18, 2005 in Book 62 at Page 34 as Entry No. 2123449;

"The Chalets at Ski Lake Phase 3" which was recorded in the Weber County Recorder's Office on December 15, 2005 in Book 63 at Page 2 as Entry No. 2148790;

"The Chalets at Ski Lake Phase 4" which was recorded in the Weber County Recorder's Office on February 12, 2007 in Book 65 at Page 55 as Entry No. 2241559;

"The Chalets at Ski Lake Phase 5" which was recorded in the Weber County Recorder's Office on January 31, 2012 in Book 72 at Page 59 as Entry No. 2560424;

"The Chalets at Ski Lake Phase 6" which was recorded in the Weber County Recorder's Office on May 7, 2013 in Book 74 at Page 1 as Entry No. 2634165; and

"The Chalets at Ski Lake Phase 7" which was recorded in the Weber County Recorder's Office on September 9, 2014 in Book 76 at Page 26 as Entry No. 2701785;

"The Chalets at Ski Lake Phase 8" which was recorded in the Weber County Recorder's Office on November 4, 2015 in Book 78 at Page 37 as Entry No. 2764171.

20-093-0001-0002 -BT  
20-098-0001-0012 -BT  
20-100-0001-0003 -BT  
20-115-0001-0012 -BT  
20-135-0001-0009 -BT

20-139-0001-0015 -BT  
20-144-0001-0018 -BT  
20-149-0001-0017 -BT

Exhibit "B"  
to  
FOURTH AMENDED AND RESTATED  
DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR THE CHALETS AT SKI LAKE

---

BYLAWS  
OF  
CHALETS AT SKI LAKE OWNERS ASSOCIATION

ARTICLE 1  
NAME, PRINCIPAL OFFICE AND DEFINITIONS

- 1.1 Name. The name of the corporation is: Chalets at Ski Lake Owners Association, Inc. (the "**Association**").
- 1.2 Principal Office. The principal office of the Association shall be located at 5393 East 3850 North, Eden, UT 84310. The Association may designate as its principal office a different location within the State of Utah as determined by the Board of Trustees (the "**Board**").
- 1.3 Definitions. The words used in these Bylaws shall be given their normal, commonly understood definitions, except that capitalized terms shall have the same meaning as set forth in the Declaration to which these Bylaws are attached unless the context indicates otherwise.

ARTICLE 2  
VOTING RIGHTS, MAJORITY OF QUORUM, PROXIES

- 2.1 Voting Rights. Class "A" and Class "B" Membership and voting rights, as well as the Class "B" Control Period, shall be as provided in the Declaration.
- 2.2 Majority of Quorum. Unless otherwise provided in these Bylaws or in the Declaration, any action which may be taken by the Association may be taken by a majority of a quorum.
- 2.3 Quorum. At any meeting of the Members, those Members who are represented for any purpose at such meeting and entitled to vote shall constitute a quorum. Once a Member is represented for any purpose at a meeting, including the purpose of determining that a quorum exists, that Member is considered present for quorum purposes for the remainder of the meeting and for any adjournment of that meeting, unless a new record date is or shall be set for that adjourned meeting.
- 2.4 Proxies. Votes may be cast in person or by proxy. Proxies must be in writing and filed with the Secretary/Treasurer no later than twenty-four (24) hours before the appointed time of each meeting. Every proxy shall be revocable and shall automatically cease after completion of the meeting for which the proxy was filed and upon conveyance by the Member of his or her Lot.

ARTICLE 3  
ADMINISTRATION

3.1 Association Responsibilities. The Association shall have certain responsibilities for administering the Community as more particularly set forth in the Declaration.

3.2 Place of Meetings. Meetings of the Association shall be held at a location that is suitable and convenient to the Members as may be designated by the Board from time to time.

3.3 Annual Meetings of Members. The date and time of regular annual meetings of the Association's members shall be set by the Board. At the annual meeting, the Board shall present a review of the Common Expenses, itemizing receipts and disbursements for the preceding calendar year, and the allocation thereof to each Owner, the estimated Common Expenses for the coming fiscal year, and a proposed Annual Budget based upon such estimated Common Expenses.

3.4 Special Meetings of Members. Special meetings of the Members may be called at any time by a majority of a quorum of the Board of Trustees or upon a petition signed by Members holding at least fifteen (15%) of the voting power of each class of the Members, having been presented to the Secretary/Treasurer. The notice of any special meeting shall state the time and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting except as stated in the notice, unless by consent of those Members holding at least four-fifths (4/5<sup>th</sup>) of the voting power of the Association, either in person or by proxy.

3.5 Notice of Meetings. Notices stating the place, day, and hour of any meeting of the Members shall be delivered, either personally, via email or by regular mail, to each Member entitled to vote at such meeting, not less than ten (10) nor more than sixty (60) days prior to the date of such meeting, by or at the direction of the President or the Secretary or the officers or persons calling the meeting. In the case of a special meeting or when otherwise required by statute or these Bylaws, the purpose or purposes for which the meeting is called shall be stated in the notice. No business shall be transacted at a special meeting except as stated in the notice. If mailed, the notice shall be deemed to be delivered when deposited with a mail carrier in accordance with these Bylaws and addressed to the Member at his address as it appears on the Association's records, with postage prepaid. If no address has been furnished to the Association, notice shall be deemed to have been given to a Member if posted in a conspicuous place on that Member's Lot or Dwelling.

3.6 Waiver of Notice. Waiver of notice of any meeting of the Members shall be deemed the equivalent of proper notice. Any Member may waive, in writing, notice of any meeting of the Members, either before or after such meeting. Any Member who attends a meeting waives notice of the time, date, and place thereof, unless such Member specifically objects to lack of proper notice at the time the meeting is called to order. Attendance at a special meeting also shall be deemed waiver of notice of all business transacted at such meeting unless an objection on the basis of lack of proper notice is raised before the business is put to a vote.

3.7 Order of Business. The order of business at all meetings of the Members shall be as determined by the President or, if the President is unable or unwilling to attend such meeting, by any other officer of the Board or by the person who called and/or organized the meeting.

3.8 Voting. The Members, including the Declarant, shall be entitled to cast their respective votes for each Lot owned as set forth under Section 3.3.6 of the Declaration. In the case of a Lot with multiple Owners/Members, the Owners will agree among themselves how the vote applicable to that Lot will be cast, and if no agreement can be reached, no vote will be received related to that Lot. Any of the multiple Owners/Members for a Lot appearing at the meeting in person or by proxy shall be deemed to be acting with proper authority for all of the other Owners of that Lot unless the other Owners are also present or have filed written objections to that Owner's representation of the other Owners of the Lot in question.

3.9 Waiver of Irregularities. Any inaccuracies, irregularities, or errors, in any call for a meeting or notice of meeting, inaccuracies or irregularities in the determination of a quorum or acceptance of proxies are deemed waived unless there is an objection stated at the meeting prior to the vote being taken.

3.10 Conduct of Meetings. The President shall preside over all meetings of the Association, and the Secretary shall keep the minutes of the meetings and record in a minute book all resolutions adopted and all other transactions occurring at such meetings. If the President is unable or unwilling to preside over any meeting, such duties may be assumed by any other officer of the Board or by the person who called and/or organized the meeting.

3.11 Action Without a Meeting. Any action required or permitted by law to be taken at a meeting of the Members may be taken without a meeting, without prior notice, and/or without a vote if written consent specifically authorizing the proposed action is signed by Members representing two-thirds (2/3) of the total of all votes vested in the Members. Such consents shall be signed no later than sixty (60) days after receipt of the earliest date consent, dated, and delivered to the Association. Such consents, as filed with the minutes of the Association, shall have the same force and effect as a vote of the Members at a meeting. No later than ten (10) days after receiving written consent authorization for any action, the Secretary shall give written notice to all Members entitled to vote who did not give their written consent, fairly summarizing the material issues of the authorized action.

#### ARTICLE 4

##### BOARD OF TRUSTEES: SELECTION, MEETINGS, POWERS

4.1 Governing Body. The Board shall govern the Association's affairs. Each Trustee shall have one vote. Except with respect to the Class "B" Member's appointees, each Trustee must be an Owner.

4.2 Number of Trustees. The Board shall consist of three (3) Trustees, as provided herein. The term of office may be one (1) or two (2) calendar years, and the expiration of such terms may, to the extent practical or possible, be offset or staggered such that the normal number of vacancies in any given calendar year will not be a majority of the positions on the Board.

4.3 Trustees During and After Class "B" Control Period. Declarant shall appoint all Trustees during the Class "B" Control Period. During such Class "B" Control Period, the Declarant may voluntarily choose to appoint an Owner to one or two Trustee positions on the Board, or may voluntarily allow the Owners to elect an Owner to fill such position(s) on the Board.

After the Class "B" Control Period has expired, the Declarant shall be entitled to appoint to the Board one Trustee who may or may not be an Owner. During such period of time the Declarant may voluntarily choose to appoint an Owner to such Trustee position, or may voluntarily allow the Owners to elect an Owner to fill such position on the Board.

4.4 Removal of Board Members.

(a) Only the Declarant may remove any Trustee who was appointed to the Board by the Declarant.

(b) At any annual or special meeting, any Trustee, other than any Declarant appointee, may be removed, with or without cause, by Members representing at least a majority of the total of all votes vested in the Members, whether in-person or by proxy or by absentee ballot, at a duly constituted meeting at which a quorum is present. A successor Trustee may be elected at that meeting to fill the vacancy thus created. The notice of the meeting must state that the removal is to be considered and any Trustee whose removal has been proposed by the Owners may be given an opportunity to be heard at the meeting.

(c) The Board may remove any Trustee, other than any Declarant appointee, for cause by the vote of a majority of all Trustees then in office. Reasons for removal for cause may include: delinquency in Assessment payments for sixty (60) calendar days or more; suing, or being sued by the Association or the Board or any Trustee or Member of the Association; and absence from three (3) consecutive regular meetings of the Board. The vacancy shall be filled as provided in Section 4.5 of these Bylaws.

4.5 Vacancies. Any Board vacancy caused by the removal or resignation of any Trustee who was appointed by the Declarant shall only be filled by an appointee of the Declarant.

Any Board vacancy caused by the Board's decision to remove a Trustee, or caused by the resignation of a Trustee who was not appointed by the Declarant, shall be filled for the balance of the term of such Board vacancy by the affirmative vote of a simple majority of the remaining Trustees even though they may constitute less than a quorum. If the remaining Trustees are unable to achieve a simple majority to fill the Board, that vacancy shall be filled by a vote of the Owners pursuant to the Association's process for electing Trustees.

Any Board vacancy caused by the removal of a Trustee by a vote of the Owners shall be filled by a vote of the Owners pursuant to the Association's process for electing Trustees.

No later than thirty (30) days following the expiration or termination of the Class "B" Control Period, the Owners shall hold an election in order to replace any positions on the Board that the Declarant is no longer entitled to fill.

Any person appointed or elected to fill a mid-term vacancy of the Board shall complete the remaining term of the vacated Board position.



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

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

#### ARTICLE 5 APPOINTMENT, NOMINATION AND ELECTION OF TRUSTEES

5.1 Expiration of Class "B" Control Period. The provisions of this Article 5 shall apply only after the Class "B" Control Period has expired.

5.2 Nomination.

(a) Method of Nominations. Nomination for election to the Board may be made by a Nominating Committee. Prospective Trustees must be nominated from among the Owners. Any such prospective Trustee must provide the Nominating Committee notice of his or her intent to run no later than five (5) calendar days prior to the meeting in which elections will occur. The Nominating Committee shall make as many nominations for election to the Board as it shall in its discretion determine, but not less than the number of vacancies.

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

5.3 Election. At the election for Trustees, the Owners or their proxies shall cast one (1) vote towards the entire list of Trustee nominees. If just one Trustee position must be filled, the nominated Owner receiving the largest amount of votes shall be elected. If two (or more) Trustee positions must be filled, then the two (or more) nominees receiving the largest amount of votes shall be elected. The results of each Trustee election shall be posted at the Association's clubhouse and on the Association's website.

Trustees may be elected by mail-in ballot (in lieu of a meeting of the Owners). Mail-in ballots must be sent to all Owners entitled to participate in the election. Provided a ballot has been mailed to all such Owners entitled to vote, the properly completed ballots that are received by the Association shall be sufficient to determine the outcome of the election.

5.4 Class "B" Membership Following Class "B" Control Period. During the period of time that begins on the date the Class "B" Control Period has expired, and continuing until the date the Class "B" membership has terminated, the nomination and election procedures set forth under this Article 5 shall be subject to the Declarant's right to hold or appoint one position on the Board as required under Section 4.3 of these Bylaws.

ARTICLE 6  
MEETINGS OF THE BOARD OF TRUSTEES

6.1 Organizational Meeting.

(a) Location, Date and Time. The first meeting of a newly elected Board shall be held within thirty (30) calendar days of election at such place, date and time as shall be fixed by the Trustees at the meeting at which the Trustees were elected. Notice of such first meeting shall be given to each member of the newly elected Board.

(b) Procedure and Business. Until the election of new officers, the meeting shall be chaired by the outgoing President, or in the absence of such person, the outgoing Secretary, regardless of whether the outgoing President or Secretary is as member of the newly constituted Board. At the organizational meeting, the Board shall elect officers in accordance with Section 8.2 below and may conduct any other Association business.

6.2 Regular Meetings. Regular meetings of the Board shall be held no less than six (6) times during each fiscal year, with each such meeting being held no less than once every other calendar month, at such place and hour as may be fixed from time to time by resolution of the Board. Should the Board meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday, or at another date and time agreed upon by the Board with notice to all Trustees.

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

6.4 Meeting Procedure.

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

(b) A decision of the Board is deemed valid without regard to any procedural errors related to the rules of order unless the error is reflected in the meeting minutes or appears on the face of the Board resolution (if any) memorializing the Board's decision.

6.5 Open Meetings; Executive Sessions.

(a) Open Meetings. Except as provided in Subsection (b) of this Section 6.5, all meetings of the Board shall be open to Owners. An Owner may participate in discussions regarding a particular matter on the Board's agenda during the portion of the meeting designated for such discussion. The Board shall have the authority to exclude from a Board meeting any Owner who disrupts the proceedings of the meeting.

(b) Executive Sessions. In the discretion of the Board, the following matters may be considered in executive session: (1) Consultation with legal counsel concerning the rights and duties of the Association regarding existing or potential litigation or criminal matters; (2) Personnel matters, including salary negotiations and employee discipline; (3) The negotiation of contracts with third parties; (4) Collection of unpaid Assessments; and (5) Other matters of a sensitive, private, or privileged nature.

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

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

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

This Section 6.7 is intended to be consistent with the requirements of Section 16-6a-815 of the Nonprofit Corporation Act. In the event Section 16-6a-815, as may be periodically amended to provide "waiver of notice" requirements that in any way differ from those contained in this Section 6.7, then the requirements of Section 16-6a-815 shall control.

6.8 Quorum and Acts. At all meetings of the Board a majority of the existing Trustees shall constitute a quorum for the transaction of business and the acts of the majority of the Trustees present shall be the acts of the Board. If, at any meeting of the Board, there be less than a quorum present, the majority of those present may adjourn the meeting from time to time. Any unfinished business upon such adjournment of a Board meeting may only be transacted at a subsequent regular or special meeting of the Board that has been properly held by giving notice and conducting such meeting as required by these Bylaws.

ARTICLE 7  
POWERS, RIGHTS, AND DUTIES OF THE BOARD

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

7.2 Specific Powers. In addition to powers authorized by the Declaration, these Bylaws or by resolution of the Association, the Nonprofit Corporation Act or other applicable law, and subject to Section 7.3 of these Bylaws, the Board shall have the power to:

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

(b) Suspend the voting rights and right to use of any Common Area Improvements by any Owner member during any period in which such Owner shall be in default in the payment of any Assessment levied by the Association.

(c) Engage the services of a manager or managing company, accountants, attorneys or other professionals, employees or agents and to pay to said persons a reasonable compensation therefore.

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

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

(f) Operate, maintain, repair, improve and replace the Common Areas.

(g) Determine and pay the Common Expenses.

(h) Assess and collect the proportionate share of Common Expenses from the Owners.

(i) Enter into contracts, deeds, leases or other written instruments or document for and in behalf of the Association and to authorize the execution and delivery thereof by the appropriate officers.

(j) Open bank accounts on behalf of the Association and designate the signatures for such bank accounts pursuant to a resolution adopted by the Board.

(k) Purchase, hold, sell, convey, mortgage or lease any interest in real property for and in behalf of the Association subject to the restrictions, limitations and provisions of the Declaration.

(l) Bring, prosecute and settle litigation for itself, the Association and Project, provided it shall make no settlement which results in a liability against the Board, the Association, or the Project in excess of \$5,000 without prior written approval of a Majority of the Owners.

(m) Obtain insurance for the Association with respect to the Common Areas and Common Area Improvements, as well as Worker's Compensation Insurance if necessary.

(n) Repair or restore the Project (or any portion of the Project) following damage or destruction, or a permanent taking by the power of, or power in the nature of, eminent domain or by an action or deed in lieu of condemnation, not resulting in the removal of the Project from the provisions of the Acts.

(o) Purchase or lease, and sell or otherwise acquire or dispose of, on behalf of the Association, items of personal property necessary to convenient management of the business and affairs of the Association and the Board and in the operation of the Project, including without limitation furniture, furnishings, fixtures, maintenance equipment, appliances and office supplies.

(p) Keep adequate books and financial records so that the Board can reasonably and regularly assess the financial status and strength of the Project. Such books and records may include, by example and without limitation, financial reports normally presented by the Manager to the Board, such as budget-to-actual reports for each fiscal quarter and fiscal year, quarterly reports of Owners who are delinquent in their payment of Assessments or any Additional Charges, fiscal quarterly and fiscal annual statements of Association's bank account balances, Association reserves reports, and Special Assessment reports (as applicable), and any other relevant financial reports.

(q) Borrow funds and enter into promissory notes, provided that any such action has been approved in writing by a Majority of the Owners.

(r) Maintain a corporate seal.

(s) Approve and sign checks and issue payment vouchers.

(t) Pay off or otherwise satisfy any liens against any portion of the Project.

(u) Do all other acts necessary for the operation and maintenance of the Project as the Board deems necessary in order to protect or preserve the Project.

7.3 Requirements Regarding Association Contracts.

(a) Minimum Required Bids. The Board shall not execute any contract or agreement on behalf of the Association (i) for any goods or services that exceed \$5,000 or (ii) that has a term of more than one year, unless the Board has first made a reasonable attempt to obtain at least two (2) bids from vendors or contractors qualified to provide such goods or services. The requirements of this Subsection 7.3(a) shall not apply (A) if the Board is unable to identify or locate more than one (1) such qualified vendor or contractor that is able or willing to provide the goods or services being sought; or (B) in the event of emergency maintenance or repairs as described under Subsection 7.3(c) below.

(b) Minimum Required Signatures. No member of the Board of Trustees (including the President or Vice-President) may unilaterally obligate or bind the Board or the Association regarding the acknowledgement of, performance of, or payment under any contract, agreement or any other document whatsoever. Any such contract, agreement or document must be signed by at least two (2) members of the Board of Trustees.

(c) Emergency Maintenance or Repairs. The Manager is prohibited from signing any contract, agreement or other document whatsoever on behalf of the Board or the Association. However, the language of this Subsection 7.3(c) shall not prevent the Manager from performing emergency maintenance or repairs, or from engaging or retaining the maintenance or repair services of any third party, as deemed necessary by the Manager in order to prevent or mitigate any harm or injury to any portion of the Project, any Owners, any tenant, guest or other occupant of any Lot, or any other individuals or property that may be located on the Project.

(d) Class "B" Control Period. The provisions of this Section 7.3 shall not apply during the Class "B" Control Period.

ARTICLE 8  
OFFICERS AND THEIR DUTIES

8.1 Designation and Qualification.

(a) Designation. The officers of the Association shall include a President, Secretary and a Treasurer. The Board members may also designate the office of Vice-President, Assistant Treasurer and Assistant Secretary.

(b) Qualifications. The President, Vice-President (if any), Secretary and Treasurer shall each be a member of the Board, but the other officers need not be Board members. Any Board member may be an officer of the Association.

(c) Multiple Offices. The offices of Secretary and Treasurer may be held by the same person. No person shall simultaneously hold more than one (1) of any of the other offices specified in Subsection 8.1(a).

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

8.2 Election and Vacancies.

(a) Generally. The officers of the Association shall be elected from the Board, and shall be elected by the Board at the organizational meeting of each new Board held in accordance with Section 6.1 or at any Board meeting thereafter, to serve until their respective successors are elected at the next organizational meeting. If any office becomes vacant by reason of death, resignation, removal, disqualification or any other cause, the Board shall elect a successor to fill the unexpired term at any meeting of the Board.

(b) Class "B" Control Period. During the entire Class "B" Control Period, the Declarant shall name, appoint and/or remove any and all officers of the Association. Such officers must be named or appointed from the Trustees that have been appointed to the Board by the Declarant.

(c) Class "B" Membership Following Class "B" Control Period. During the period of time that begins on the date the Class "B" Control Period has expired, and continuing until the date the Class "B" membership has completely terminated (Declarant or Declarant's successor or assignee no longer owns any Lots) the Declarant shall not have the right to name, appoint and/or remove any officers of the Association. During that period of time, however, the Trustee who was appointed to the Board by the Declarant pursuant to Section 4.3 may be elected to an officer position pursuant to an election of the members of the Board.

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

8.4 Removal of Officers. Officers shall hold office at the pleasure of the Board. Upon an affirmative vote of a majority of the members of the Board any officer may be removed from the Board, either with or without cause. However, as set forth under Section 4.3, during the entire Class "B" Control Period the Declarant shall be entitled to unilaterally appoint and remove some or all members of the Board as provided herein. Accordingly, the Declarant may veto any vote of the Board to remove any officer of any other Trustee from the Board.

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

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

(a) President. The President shall be the chief executive officer of the Association. He or she shall preside at all meetings of the Association and of the Board. The President shall have all of the general powers and duties which are usually vested in the office of President of an association.

(b) Vice-President. The Vice-President (if any) shall act in the place and stead of the President in the event of the President's absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required by the Board.

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

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

#### ARTICLE 9 INDEMNIFICATION OF OFFICERS AND BOARD MEMBERS

Each officer and Trustee of the Association, in consideration of his or her services, shall be indemnified by the Association to the extent permitted by law against expenses and liabilities reasonably incurred by him or her in connection with the defense of any action, suit or proceeding, civil or criminal, to which he or she may be a party by reason of being or having been a Trustee or officer of the Association. The foregoing right to indemnification shall be exclusive of any other rights to which the Trustee or officer or person may be entitled by law or agreement or vote of the members or otherwise.

#### ARTICLE 10 RECORDS AND AUDITS

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

10.1 General Records.

(a) The Board or Manager, if any, shall keep records of the actions of the Board and Manager; minutes of the meetings of the Board; and minutes of the meeting of the Association.



(b) The Board or Manager, if any, shall maintain records containing the rules, regulations, and policies adopted by the Association and Board.

(c) The Board or Manager, if any, shall maintain a list of Owners. The list of Owners may specify whether or not the Owner is an Owner in good standing.

(d) The Association shall retain within the State of Utah all records of the Association for not less than the period of time specified and required under applicable law.

10.2 Records of Receipts and Expenditures. The Board or Manager, if any, shall keep detailed, accurate records in chronological order of the receipts and expenditures affecting the Project, itemizing the maintenance and repair expenses of the Common Areas or Association property and any other expenses incurred.

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

10.4 Financial Reports and Audits.

(a) An annual report of the receipts and expenditures of the Association and a balance sheet showing assets and liabilities shall be rendered by the Board to all Owners and to all Mortgagees of Lots who have requested the same in writing no later than ninety (90) calendar days following the end of each fiscal year.

(b) No less than once every three (3) fiscal years, the Board shall, at the expense of the Association, obtain an audit or other financial review of the Association's books and records, and shall either cause a copy of the results of such audit or other financial review to be available for review by the Owners, or shall post the results of such audit or other financial review on the Association's website. The Board may not conduct the audit or other financial review itself, and must retain the services of a qualified independent financial entity.

10.5 Inspection of Records by Owners.

(a) Except as otherwise provided in Section 10.6 below, all records of the Association shall be reasonably available for examination by an Owner and any Mortgagee of a Lot and/or Dwelling pursuant to rules adopted by resolution of the Board or if no such resolution has been adopted, pursuant to the Nonprofit Corporation Act.

(b) The Board shall maintain a copy, suitable for the purposes of duplication, of the following: (1) the Declaration, Bylaws and any amendments in effect or supplements thereto, and Rules and Regulations of the Association; (2) the most recent financial statement prepared pursuant to Section 10.4; and (3) the current Annual Budget of the Association.

(c) The Association, within five (5) business days after receipt of a written request by an Owner, shall furnish the requested information required to be maintained under Subsection 10.5(b), subject to a reasonable fee for furnishing copies of any documents, information or records described in this Section 10.5. The fee may include reasonable personnel costs incurred to furnish the information.

(d) The Board, by resolution, may adopt reasonable rules governing the frequency, time, location, notice and manner of examination and duplication of Association records and the imposition of a reasonable fee for furnishing copies of any documents, information or records described in this Section 10.5. The fee may include reasonable personnel costs incurred to furnish the information.

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

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

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

(c) Communications with legal counsel that relate to matters specified in Subsections (a) and (b) of this Section 10.6, and any other communications with legal counsel that are protected by any privilege, including the attorney client privilege.

(d) Disclosure of information in violation of law.

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

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

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

10.7 Notice of Sale or Mortgage. Immediately upon the sale or Mortgage of any Lot and/or Dwelling, the Owner shall promptly inform the Secretary or Manager of the name and address of the purchaser, vendee or Mortgagee.

ARTICLE 11  
AMENDMENTS

11.1 Adoption. Amendments to these Bylaws may be approved by the Association at a duly constituted meeting or meeting by written ballot in lieu of a meeting conducted pursuant to these Bylaws. Approval by at least sixty-seven percent (67%) of the total of all votes vested in the Members for any amendment to be adopted. The approval of sixty-seven percent (67%) of the total of all votes vested in the Members shall be required for any amendment or change to the material provisions of the Bylaws pertaining to voting rights.

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

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

ARTICLE 12  
MISCELLANEOUS

12.1 Notices.

(a) Association. All notices to the Association or the Board shall be sent care of the Manager or, if there is no Manager, to the principal office of the Association or to such other address as the Board may hereafter designate from time to time.

(b) Owners.

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

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

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

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

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

12.5 Adoption of Bylaws. These Bylaws have been created for the Association by the Declarant and will be formally adopted by the Board of Trustees on behalf of the Association at the Board's organizational meeting.