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RANDALL A. COVINGTON  
UTAH COUNTY RECORDER  
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RECORDED FOR SPRINGVILLE CITY CORPORATIO

**DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS,  
AND RESERVATION OF EASEMENTS  
FOR  
SPRINGBROOK VILLAS CONDOMINIUMS,  
A SENIOR LIVING CONDOMINIUM PROJECT (EXPANDABLE)  
(PHASE I)**

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WHEN RECORDED MAIL TO:

Larry Lindstrom  
LaConte, L.C.  
1923 North 300 East  
Lehi, Utah 84095

**DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS,  
AND RESERVATION OF EASEMENTS**

**FOR**

**SPRINGBROOK VILLAS CONDOMINIUMS,  
A SENIOR LIVING CONDOMINIUM PROJECT (EXPANDABLE)  
(PHASE I)**

THIS DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS, AND RESERVATION OF EASEMENTS FOR SPRINGBROOK VILLAS CONDOMINIUMS, A SENIOR LIVING CONDOMINIUM PROJECT (EXPANDABLE) (PHASE I) is made as of this 1st day of May, 2006, by LaConte, L.C., a Utah limited liability company ("Declarant").

**ARTICLE I**

**RECITALS**

1.1 Declarant is the owner of certain real property (the "Real Property") located in Utah County, Utah, the legal description of which is set forth in the attached Exhibit A and incorporated herein by reference.

1.2 Declarant has constructed or will construct Phase I of an expandable condominium project on the Real Property, substantially in accordance with the plans as set forth in the Condominium Plat A of Springbrook Villas Condominiums, a Senior Living Condominium Project (Expandable) ("Plat") filed concurrently herewith. The initial Project, comprised of Phase I, may be later expanded as permitted by this Declaration. Declarant intends to establish the Project under and pursuant to the provisions of the Utah Condominium Ownership Act, and Declarant reserves the Option to Expand the Project in the manner described in Article VI below to include as part of the Project additional land located in Utah County, State of Utah, more particularly described in Exhibit C attached hereto and incorporated herein by reference ("Additional Land").

1.3 The Project shall initially contain sixty-four (64) residential condominium Units comprising Phase I of the Project. Declarant, by this Declaration, hereby establishes a plan for the ownership of real property estates of the Project whereby the Owner of each Unit will receive title to his individual Unit and an undivided interest in the Common Areas contained in the Project, as the same are defined below. Each Unit shall have appurtenant to it a membership in

the Association, as defined below, which, as provided below, shall administer and control the Common Areas.

1.4 Declarant intends by this Declaration to impose upon the Real Property mutually beneficial restrictions under a general plan of improvement for the benefit of all of said Units and the Owners thereof. Moreover, Declarant intends that the Project shall be developed as a community for persons 55 or older and intends to qualify for the age restriction exemption under the Fair Housing Act (Title VIII of the Civil Rights Act, 42 USC § 3601, *et seq.*) that allows communities to be operated for occupancy by persons 55 years of age or older and to satisfy those certain criteria set forth in the Housing for Older Persons Act (42 USC § 3607(b)(2)(C)), and to adopt certain age restriction rules and regulations to be enforced by the Association.

1.5 Declarant hereby declares that said Real Property shall be held, conveyed, mortgaged, encumbered, leased, rented, used, occupied, sold, and improved subject to the provisions and conditions of the following declarations, limitations, covenants, conditions, restrictions, and easements, all of which, pursuant to the provisions of the Utah Condominium Ownership Act, shall be enforceable equitable servitudes, where reasonable, shall run with the land, and shall be binding upon Declarant, upon its successors and assigns, and upon all parties having or acquiring any right, title or interest in or to any portion of said Real Property.

## ARTICLE II

### DEFINITIONS

2.1 Interpretation: Definitions contained in the Utah Condominium Ownership Act, to the extent they are not inconsistent with the following definitions, shall be and are hereby incorporated herein by this reference and shall have the same effect as if expressly set forth herein and made a part hereof.

#### 2.2 Definitions:

2.2.1 The "Act" shall mean the Utah Condominium Ownership Act, Utah Code Ann., §§ 57-8-1 through 57-8-38, as the same may be amended from time to time.

2.2.2 "Additional Land" shall mean the real property described in the attached Exhibit C, together with all easements, rights, and appurtenances belonging thereto.

2.2.3 "Association" shall mean and refer to the Springbrook Villas Condominiums Owners Association, a Utah nonprofit corporation, organized under the Utah Revised Nonprofit Corporation Act and acting in accordance with this Declaration and its Bylaws, as the same may be amended from time to time.

2.2.4 "Articles" and "Articles of Incorporation" shall mean the Articles of Incorporation of the Association.

2.2.5 "Board" shall mean the Management Committee, which is the governing board of the Association, created in accordance with and governed by the

provisions and conditions of the Utah Revised Nonprofit Corporation Act and its Bylaws from time to time in effect. Until the Declarant Control Period under Section 27.1 below has expired, the Board shall consist of three (3) Directors selected by the Declarant.

2.2.6 “Building” shall mean any building containing Units constructed on the Real Property and upon the Additional Land if the Project has been expanded to include the Additional Land as permitted by this Declaration.

2.2.7 “Bylaws” shall mean the Bylaws of the Association, created under and pursuant to the provisions of the Act, a copy of which are attached as Exhibit B and incorporated herein by this reference.

2.2.8 “Common Areas” shall mean:

2.2.8.1 The Real Property;

2.2.8.2 The Additional Land after the Project is expanded as permitted by this Declaration to include the Additional Land.

2.2.8.3 All improvements of the Project and appurtenances thereto, except those portions labeled or described in Article V below of this Declaration or labeled as part of a Unit on the Plat or on any amended or supplemental condominium plat or any amended or supplemental declaration adding any of the Additional Land as an additional phase to the Project.

2.2.9 “Common Assessment” shall mean that portion of the Common Expenses which is charged to each Unit Owner.

2.2.10 “Common Expenses” shall mean all expenses of utilities, administration, maintenance, taxes, repair or replacement of the Common Areas and Facilities, including the Limited Common Areas, together with reserves therefor, and other expenses declared Common Expenses by the provisions of the Act, this Declaration, or any Bylaws duly adopted by the Association.

2.2.11 “Condominium Documents” shall mean this Declaration, the Articles, the Bylaws, the Plat, and any rules and regulations promulgated by the Association as the same may be amended and/or supplemented from time to time.

2.2.12 “Declarant” shall mean, for purposes of Phase I of the Project, LaConte, L.C., a Utah limited liability company, including its successors and assigns, and shall also include, in addition, any owner or owners of the Additional Land, if any, other than LaConte, L.C., (i) who have the right to add the Additional Land to the Project pursuant to Article VI below and (ii) who, during the seven (7) year time period described in that Article VI actually exercise that right to add the Additional Land to the Project.

2.2.13 “Declarant Control Period” shall mean the period of Declarant Control of the Association described in Section 27.1 below.



2.2.14 “Declaration” shall mean and refer to this DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS, AND RESERVATION OF EASEMENTS FOR SPRINGBROOK VILLAS CONDOMINIUMS, A SENIOR LIVING CONDOMINIUM PROJECT (EXPANDABLE) (PHASE I), [as the Project may be hereafter expanded in the manner permitted by this Declaration to include the Additional Land and one additional phase constructed on the Additional Land.]

2.2.15 “Director(s)” shall mean that person or those persons serving, at the time pertinent, as a trustee or trustees of the Association, and shall also mean a member or members of the Management Committee, which Management Committee shall be made up of the trustees of the Association.

2.2.16 “Eligible Mortgagee” shall mean and refer to a First Mortgagee that has requested notice of certain matters from the Association in accordance with Section 28.1 of this Declaration.

2.2.17 “HOPA” shall mean and refer to the Housing for Older Persons Act (42 USC § 3607(b)(2)(C)), as may be amended from time to time.

2.2.18 “Limited Common Areas” shall mean those portions of the Common Areas that are labeled or designated “limited common areas” on the Plat or described in this Declaration as Limited Common Areas, as those instruments may be hereafter amended or supplemented. In the case of each Unit, Limited Common Areas appurtenant to a Unit include, without limitation, contiguous patio and an exterior parking area immediately in front of the garage both serving that Unit. Such Limited Common Area is reserved for the exclusive use of the Owners and Occupants of the Unit it is designated to serve. Any shutters, awnings, window boxes, doorsteps, porches, balconies, or other apparatuses intended to serve a single Unit, but located outside the boundaries of the Unit, shall constitute a Limited Common Area and Facility appertaining to that Unit exclusively, whether or not such items are labeled as Limited Common Areas on the Plat.

2.2.19 “Management Committee” shall mean the Board of Directors acting as a body having the responsibility and authority, subject to the rights of the Declarant under Article XXVII below, to make and to enforce all of the reasonable rules covering the operation and maintenance of the Property and to carry out any other duties assigned to it under this Declaration or the Bylaws.

2.2.20 “Manager” shall mean the person(s) or entity or entities selected by the Board to manage the affairs of the Project as directed by the Board, although the Board shall not be required to appoint such a Manager.

2.2.21 “Member” shall mean an Owner acting as a member of the Association as described in Article IX below.

2.2.22 “Mortgage” shall mean any mortgage, deed of trust, or other security instrument by which a Unit or any part thereof is encumbered; a “First Mortgage” shall constitute a Mortgage that constitutes a lien on a Unit superior to any other Mortgage.

2.2.23 "Mortgagee" shall mean any person or entity named as the Mortgagee, beneficiary, or obligee under any Mortgage, including any successor-in-interest to any such person or entity; a "First Mortgagee" shall mean a Mortgagee under a First Mortgage.

2.2.24 "Occupant" shall mean a person lawfully residing in a Unit who has actual use, possession or control of the Unit, regardless of whether or not that person is a Unit Owner.

2.2.25 "Owner" or "Unit Owner" shall mean any person or entity having an ownership interest in the fee simple title of a Unit, including the Declarant. The term Unit Owner or Owner shall not include Mortgagees and other persons or entities having any interest merely as security for the performance of an obligation.

2.2.26 "Plat" shall mean the Condominium Plat A of the Springbrook Villas Condominiums, a Senior Living Condominium Project (Expandable) recorded by Declarant concurrently with this Declaration, as the same may be hereafter amended or supplemented to expand the Project as permitted by this Declaration.

2.2.27 "Project" shall mean the entire "Property" defined below, together with all rights, obligations and organizations established by this Declaration. The Project shall be known as the "Springbrook Villas Condominiums, a Senior Living Condominium Project" or "Springbrook Villas Condominiums." If and when the Project is later expanded in the manner permitted by this Declaration, the term "Project" shall be automatically deemed to include the Additional Land added to the Project and the additional Phase II added to the Project through such expansion.

2.2.28 "Property" shall mean the Real Property; the Additional Land when and if the Project is expanded in the manner permitted by this Declaration to include the Additional Land; all Buildings located upon the Real Property; all Buildings hereafter located upon the Additional Land if the Project is expanded as permitted by this Declaration to include the Additional Land; any and all easements, rights, and appurtenances belonging to the Real Property; any and all easements, rights, and appurtenances belonging to the Additional Land if and when the Project is expanded to include the Additional Land; all other improvements and structures on the Real Property; if and when the Project is expanded to include the Additional Land, all other improvements and structures on the Additional Land; and all articles of personal property intended for common use of Unit Owners in connection with the use of the Common Areas or Units.

2.2.29 "Real Property" shall mean the real property described in the attached Exhibit A, together with all easements, rights, and appurtenances belonging thereto.

2.2.30 "Unit(s)" shall mean that portion or portions of the Property described as a Unit or Units in Article V of this Declaration below.

2.2.31 "Unit Number" shall mean the number of a particular Unit as set forth in this Declaration and/or in the Plat.

2.2.32 "Utility Services" shall include, but shall not be limited to, water, electric power, trash collection, and sewage disposal.

### ARTICLE III

#### APPLICABILITY OF ACT

It is the intention of Declarant that the provisions of the Act shall apply to the Project and that the provisions of this Declaration shall be construed in accordance therewith, except where the language of the Declaration is clearly inconsistent with the Act.

### ARTICLE IV

#### DESCRIPTION OF THE PROJECT

4.1 Location: The Project is located on the Real Property which is situated at approximately 400 South 550 West, Springville, Utah County, Utah.

4.2 Description of Improvements:

4.2.1 Residential Buildings. Subject to the right of Declarant to expand the Project as permitted by this Declaration, there are sixteen (16) residential Buildings that are a part of Phase I of the Project, each containing four dwelling Units, making a total of sixty-four (64) dwelling Units. The residential Buildings are of traditional architectural style, single story, ranch type, with quadplex layouts, so that each dwelling Unit in a Building faces in a different direction, and so that the garage spaces in each Building adjoin at the center of the Building. These buildings are of wood frame construction, on concrete slabs, with brick or cultured stone and stucco exterior walls and fiberglass shingle roofs. The principal materials of which these Buildings are constructed are wood, glass, concrete, brick, fiberglass shingle, and drywall. The residential Buildings are located as shown on the Plat.

4.2.2 Other Improvements. Each dwelling Unit has a private exterior entrance, contiguous patio and an exterior parking area immediately in front of the attached garage, which is part of that dwelling Unit. The Project also contains a community building or clubhouse built of similar architectural style and similar materials as the residential Buildings, which is approximately 3,000 square feet. The clubhouse contains an office, two restrooms, a large lounge meeting room, a mechanical room, theater, and an exercise room. The Project also contains an outdoor swimming pool, approximately eighteen by forty feet. There are no other recreation facilities in the Project.

4.3 No Separate Conveyance of Undivided Interests: The undivided interest in the Common Areas appurtenant to each Unit in the Project shall be equal and, except as otherwise provided in this Declaration, shall have a permanent character and shall not be altered. Except as otherwise expressly provided by the Act, pursuant to § 57-8-7(3) of the Act, the undivided interest of each Unit Owner in the Common Areas appertaining to a Unit or the liability for Common Expenses appertaining thereto as expressed in this Declaration shall not be altered

without the consent of two-thirds of the Unit Owners expressed in an amendment to this Declaration duly recorded in the Office of the County Recorder of Utah County, Utah. The undivided interest of a particular Unit in the Common Areas shall be equal to a fraction, the numerator of which shall be one and the denominator of which shall be the total number of Units in the Project, as such total number Units may be increased if the Project has been expanded to include the Additional Land as permitted by this Declaration. The Common Areas shall be owned by the Unit Owners as tenants in common, and ownership thereof shall remain undivided. No Unit Owner may waive or release any rights in the Common Areas. Further, the undivided interest in the Common Areas of a Unit shall not be separated from the Unit to which it appertains, and such undivided interest shall be deemed to be conveyed and shall be encumbered and/or released from liens with conveyance, encumbrance, and/or release of the Unit even though such interest is not expressly mentioned or described in the conveyance or other instrument.

## ARTICLE V

### UNITS

5.1 Unit Designations: Each of the dwelling Units of Phase I of the Project is designated by the Unit Number as set forth in the Plat, which Plat also depicts, among other items, the location of the Unit and the describes the configuration of each Unit.

5.2 Composition of Units:

5.2.1 Unit Composition. Each Unit constitutes a single freehold estate and consists of the space in a Building as designated on the Plat. Each Unit is bounded by the undecorated interior surfaces of the perimeter walls, the unfinished surface of the floors, and the unfinished interior surface of the ceilings, all projected, if necessary by reason of structural division such as interior walls and partitions, to constitute complete enclosures of space, and all improvements within that space. Without limiting the generality of the foregoing, or, as appropriate, in addition, each Unit shall include:

5.2.1.1 the decorated surfaces, including paint, lacquer, varnish, wall covering, tile and other finishing material applied to floors, ceilings, and interior and perimeter walls, carpeting, if any, and also the floors and ceilings, themselves, and the drywall, paneling, and other finishing wall material;

5.2.1.2 all windows, skylights, if any, and screens and doors, including storm doors and windows, if any, and the frames, sashes and jambs, and the hardware therefor;

5.2.1.3 all fixtures and appliances installed for the exclusive use of that Unit, commencing at the point of disconnection from the structural body of the Building and from utility pipes, lines, or systems serving the entire Building or more than one Unit thereof, including, without limiting the generality hereof, built-in cabinets, dishwashers, garbage disposal units, refrigerators, stoves and hoods, television antennas and cables, furnaces, hot water heaters, heat pumps, air

conditioning units (even though located outside the bounds of a Unit), and components of the foregoing, if any;

5.2.1.4 all plumbing, electric, heating, cooling and other utility or service lines, pipes, wires, ducts, conduits and apparatuses, wherever located, which serve only that Unit;

5.2.1.5 all control knobs, switches, thermostats, and electrical outlets and connections affixed to or projecting from the walls, floors, and ceilings which service either the Unit or the fixtures located therein;

5.2.1.6 all interior walls that are not necessary for support of the structure, and all components thereof and all space encompassed thereby;

5.2.1.7 the portion of fireplaces actually within the interior of a Unit, and fireplace vents or chases;

5.2.1.8 the space in the attached garage; and

5.2.1.9 the attic space or storage space above a Unit, and the crawl space below a Unit, if any, to which the Unit has direct and exclusive access.

5.2.2 Excluded from a Unit, however, are all of the following items, whether or not located within the bounds of that Unit:

5.2.2.1 any supporting element of the Building contained in interior walls;

5.2.2.2 all plumbing, electric, heating, cooling and other utility or service lines, pipes, sump pumps and accessories thereto, wires, ducts and conduits which serve any other Unit; and

5.2.2.3 fireplace exhaust vents.

5.2.3 Unit Types, Sizes, Locations and Components. The type and location of each Unit is set forth on the Plat, which Plat also sets forth the size, configuration and floor plan of each type of Unit. The size of each type of Unit is described in terms of "gross interior square feet," which means the area of space that constitutes a Unit, and is measured from the interior surfaces of exterior walls inward, and includes space occupied by interior partitions, space in the porch or veranda, and space in the attached garage. Each Unit has its own gas furnace, hot water heater, and a fireplace. Each Unit has direct access to a Common Area, which leads directly to 550 West Street, Springville City, Utah, which is a public street.

**ARTICLE VI****ALTERATIONS AND AMENDMENT OF MAP AND DECLARATION;  
OPTION TO EXPAND PROJECT**

6.1 Right to Modify Units: So long as Declarant has the right to expand the Project in accordance with Section 6.2 below, Declarant, to the extent permitted by law, reserves the right to change the interior design and interior arrangement of any Unit and to alter the boundaries between Units, so long as the Declarant owns the Units so altered or obtains and duly records the written authorization of the Owner of any altered Unit not owned by Declarant. Further, to the extent permitted by law, Declarant reserves the right, during such period, to change or alter the exterior design of the Units, including, but not limited to, altering or changing the placement, size, number, and configuration of doors, entry-ways, windows, and similar items, provided the principal type of construction and building materials described in paragraph 4.2 above are not materially altered, as Declarant shall determine in its reasonable discretion. Any change of the boundaries between Units or of Common Areas shall be reflected by an amendment of this Declaration and to the Plat, if required, which amendments, notwithstanding the provisions of Article XXII below, may be executed solely by the Declarant and the Owner(s) of any Unit(s) whose boundary or boundaries are changed. It is understood that, as part of such right and during such period, Declarant may change the floor plan of any Unit it owns to mirror or to be essentially the same as the floor plan of any other Unit of the Project, so long as, in doing so, (i) Declarant does not alter the percentage of undivided interest in the Common Areas applicable to the Unit so changed and (ii) Declarant does not alter the exterior boundaries of the Project without amendment of this Declaration and the Plat in the manner described in Article XXII of this Declaration.

6.2 Option to Expand: Declarant for itself and for its successors, its assigns, any other current owner or owners of the Additional Land, their successors, and their assigns, hereby reserves the right to expand the Project ("Option to Expand") at anytime without the consent of any Unit Owners, the Management Committee or Mortgagees, to include the Additional Land and Phase II in the Project; provided, however, that such Option to Expand shall expire seven (7) years from the date of the recording of this Declaration submitting Phase I to the Act. Other than termination of such right by expiration of such period of time, such Option to Expand may not be terminated other than by an instrument recorded in the Office of the County Recorder of Utah County, Utah which shall be signed and acknowledged by Declarant. It is, therefore, understood that the term "Declarant" as used in this Declaration for purposes of expanding the Project and thereafter may include persons and entities other than LaConte, L.C.. Such Option to Expand shall be subject to no limitations other than those set forth in this paragraph 6.2 below, which provisions shall govern expansion of the Project:

6.2.1 For purposes of this Article VI and other provisions of this Declaration, the term "Additional Land" shall mean the real property described in the attached Exhibit C, together with all easements, rights, and appurtenances belonging thereto.

6.2.2 The only land that may be added to the Project through the Option to Expand shall be the Additional Land set forth in Exhibit C.

6.2.3 There may be only one additional phase added to the Project consisting of Phase II, the land of which shall be comprised of the Additional Land.

6.2.4 If the Project is expanded to include the Additional Land, it must be added to the Project all at once and not at different times.

6.2.5 No assurances are made as to where improvements may be placed on the Additional Land comprising Phase II, and there are no limitations as to the location of such improvements on the Additional Land.

6.2.6 The maximum number of Units that may be created on the Additional Land is sixty-two (62).

6.2.7 All Units on the Additional Land shall be restricted exclusively to residential purposes.

6.2.8 Any structures erected on the Additional Land will be compatible in all material respects with the structures comprising Phase I in terms of quality of construction, principal materials used, and architectural style.

6.2.9 Each Unit on the Additional Land must be substantially similar to one of the types of Units of Phase I of the Project, and no other types of Units may be created on the Additional Land.

6.2.10 Limited Common Areas assigned for the benefit of any Unit created on the Additional Land shall be of the same general type and configuration as the Limited Common Areas of a Unit of similar type in Phase I of the Project.

6.2.11 Expansion of the Project shall be accomplished in accordance with the provisions of the Act. In expanding the Project, an amendment of this Declaration and a supplemental Plat shall be duly executed, acknowledged, and recorded by Declarant and all then owners and lessees of the Additional Land, if there are any other than Declarant. Such amendment shall include the information required by the Act.

6.2.12 The amendment to this Declaration described above shall reallocate the undivided interests in the Common Areas so that the Units depicted on the supplemental Plat described above shall be allocated undivided interests in the Common Areas on the same basis as the Units depicted on the Plat that is recorded with this Declaration. In this regard, allocation of undivided interests in the Common Areas shall be equal, unless Declarant and all other persons and entities, if any, who, at the time of such amendment, have an ownership interest in the Additional Land, mutually agree to make an allocation on any different basis that may then be permitted by the Act.

6.3 Declarant's Disclaimer of Representations: Anything to the contrary in this Declaration notwithstanding, and except as may otherwise be expressly set forth on the Plat or other recorded instrument, Declarant makes no warranties or representations whatsoever that the plans presently envisioned for the complete development of the Project can or will be carried out. Prior to the expiration of the Declarant's Control Period described in Section 27.1 below,

Declarant reserves the right, in its sole and exclusive discretion, to make changes or modifications to the Common Area site plan and landscape plan. To the extent permitted by law, such changes may include, without limitation, modifications to the actual placement and configuration of walkways, driveways, steps, parking areas and other Common Area features. All Owners are hereby advised that there are no assurances or representations in this Declaration as to the placement, number, type, or size of landscaping elements, including but not limited to, trees, shrubs, flowers, grass, decorative rocks, or planting areas, whether or not depicted on any land use or landscaping plan, sales brochure or other marketing display. No purported representation, warranty or commitment, written or oral, in such regard shall ever be effective without an amendment to this Declaration executed by Declarant as it shall determine in its exclusive discretion.

## ARTICLE VII

### STATEMENT OF PURPOSE AND RESTRICTION ON USE

7.1 **Purpose:** The purpose of this Declaration, in addition to establishing separate individual parcels to which fee simple interests may be conveyed, is to create restrictions, covenants, and easements providing for, prompting, and preserving the values of Units and the Common Areas and the well being of Unit Owners and Occupants, and to establish a Unit Owners Association to administer the Project, to administer and enforce the covenants, easements, charges and restrictions hereinafter set forth, and to raise funds through assessments to accomplish these purposes. Moreover, the purpose of this Declaration is to establish a community for persons 55 or older and to qualify for the age restriction exemption under the Fair Housing Act (Title VIII of the Civil Rights Act, 42 USC § 3601, *et seq.*) that allows communities to be operated for occupancy by persons 55 years of age or older, to satisfy those certain criteria set forth in HOPA and to adopt certain age restriction rules and regulations and age verification procedures to be enforced by the Association.

7.2 **Restrictions on Use:** In addition to all of the covenants contained herein, the use of the Units and Common Areas are subject to the following:

7.2.1 **Residential Use.** Except as otherwise specifically provided in this Declaration, no Unit shall be used for any purpose other than that of a residence for individuals living together as a single housekeeping unit, and uses customarily incidental thereto, provided, however, that no Unit may be used as a rooming house, group home, commercial foster home, fraternity or sorority house, off-campus housing by unrelated students, or any similar type of lodging, care or treatment facility. The foregoing residential use restriction is subject, however, to any applicable current or future federal or Utah housing law that may now or in the future render such residential use restriction unenforceable in whole or in part, in which event such residential use restriction shall restrict use of the Project only to the extent permitted by law. Notwithstanding the foregoing: (i) an Occupant maintaining a personal or professional library, keeping personal business or professional records or accounts, conducting personal business (provided that such use does not involve customers, employees, licensees or invitees coming to the Unit), making professional telephone calls, or corresponding, in or from a Unit, is engaging in a use expressly declared customarily incidental to residential use and



is not in violation of these restrictions; (ii) it shall be permissible for the Declarant to maintain, during the period of its sale or rental of Units, but for no longer than a six (6) year period of time following the time of the closing of the first sale of a Unit to a bona fide purchaser, one or more Units as sales and rental models and offices, and for storage and maintenance purposes. Additionally, one or more Units may be maintained for the use of the Association in fulfilling its responsibilities.

7.2.2 Insurance. Without the prior written consent of the Management Committee, nothing shall be done or kept in any Unit or in the Common Areas which will increase the rate of insurance on the Buildings or contents thereof beyond that customarily applicable for residential use or that will result in the cancellation of insurance on said Buildings, or the contents thereof. No Unit Owner shall permit anything to be done or kept in his Unit or in the Common Areas which is in violation of any law or regulation of any governmental authority.

7.2.3 Visible Areas. Nothing shall be caused or permitted to be hung or displayed on the outside or inside of windows of Buildings or placed on the outside walls of a Building or otherwise outside of a Unit, or any part thereof, except interior inoffensive drapes, curtains, or louvered blinds which, from exterior observation, must be white, beige or gray, or as otherwise authorized by the Management Committee. No awning, canopy, shutter or television or citizens' band or other radio antenna or transmitter, or any other device or ornament, shall be affixed to or placed upon an exterior wall or roof or any part thereof of a Building, or the exterior of any door or window of a Building, or in, on, or over a patio, porch or balcony of a Building, visible to the exterior, unless authorized by the Management Committee. Notwithstanding the foregoing, nothing in this Declaration shall be deemed to prohibit the reasonable placement of reasonably small satellite discs on the roofs of individual Units by the Owner or Owners of those Units.

7.2.4 Offensive Activities. No noxious or offensive activity shall be carried on in any Unit or in the Common Areas, nor shall any be used in any way or for any purpose which may endanger the health of or unreasonably disturb any Owner or lawful Occupant of other Units.

7.2.5 Structured Integrity. Nothing shall be done in any Unit or in, on, or to the Common Areas which will impair the structural integrity of any Building or structurally change the same or any part thereof except as is otherwise provided in this Declaration.

7.2.6 Common Areas. The Common Areas shall be kept free and clear of all rubbish, debris, and other unsightly materials. The Common Areas (except the Limited Common Areas) shall be used in common by Unit Owners and lawful Occupants and their agents, servants, customers, invitees and licensees, in accordance with the purposes for which they are intended, reasonably suited and capable, and as may be required for the purposes of access, ingress to, egress from, use, occupancy, and enjoyment of Units. Unless expressly provided otherwise herein, no Common Areas shall be used for any purpose other than the health, safety, welfare, convenience, comfort, recreation or

enjoyment of Unit Owners and Occupants. There shall be no obstruction of the Common Areas, nor shall anything be kept or stored on any part of the Common Areas in violation of the rules adopted by the Management Committee. Nothing shall be altered on, constructed in, or removed from, the Common Areas except upon the prior written consent of the Management Committee.

7.2.7 Animals. Except as hereinafter provided, no animals, livestock, or poultry of any kind shall be raised, bred, or kept in any Unit or on the Common Areas. Notwithstanding the foregoing, household domestic pets, not bred or maintained for commercial purposes, may be maintained in a Unit, provided that: (i) no more than one pet may be maintained in any Unit, except that, if a Unit Owner, prior to the commencement of occupancy of a Unit, requests the Management Committee, in writing, for permission to maintain two pets in a Unit, the Management Committee, in its sole discretion, may, in writing, authorize two pets, provided the two pets are either dogs of a miniature breed or cats who have or will have a combined mature weight not in excess of twenty (20) pounds, the pets shall be house pets only and not permitted in Common areas, those pets are owned by the Unit Owner at the time of commencement of occupancy of a Unit, and the Unit Owner shall not be permitted to replace the first of those two pets who dies; (ii) the maintaining of animals shall be subject to such rules and regulations as the Management Committee may from time to time promulgate, including, without limitation, the right to prohibit pets entirely, to place limitations on the size, number and type of such pets, and the right to levy enforcement charges against persons who do not clean up after their pets; and (iii) the right of a lawful Occupant to maintain an animal in a Unit shall be subject to termination if the Management Committee, in its full and complete discretion, determines that maintenance of the animal constitutes a nuisance or creates a detrimental effect on the Project or other Units or Occupants.

7.2.8 Privacy. Each Owner shall have a drape, blind, or other covering which covers the windows of his Unit.

7.2.9 No Admission Fee. Other than the right of the Association to charge a reasonable fee for use of the clubhouse to reimburse the Association for the cost of clean up, maintenance, and/or repair of damage required by such use, no admission fees, charges for use, leases or other income-generating arrangement of any type shall be employed or entered into with respect to any portion of the Common Areas. Nothing in this subparagraph shall be construed to relieve Owners or Occupants from their responsibility to clean the clubhouse or to repair any damage caused by them as may be required by other provisions of this Declaration or in any rules and regulations adopted by the Board.

7.2.10 Liability of Unit Owner for Damages. Each Unit Owner shall be liable to the Association for all damages to the Common Areas caused by such Unit Owner or any invitee or Occupant of his Unit, except for that portion of said damage, if any, that is covered by insurance maintained by the Association. The failure of the Association to continue any insurance in effect shall not be a defense to any such liability.

7.2.11 Renting and Leasing. No Unit or part thereof shall be rented or used for transient or hotel purposes, which is defined as: (i) rental under which Occupants are provided customary hotel services such as room service for food and beverages, housekeeping service, the furnishing of laundry and linen, busboy service, and similar services; or (ii) rental to roomers or boarders, that is, rental to one or more persons of a portion of a Unit only. No lease may be of less than an entire Unit. Any lease agreement shall be in writing, shall provide that the lease shall be subject in all respects to the provisions of this Declaration and to the rules and regulations promulgated from time to time by the Management Committee, and shall provide that the failure by the tenant to comply with the terms of the Condominium Documents and lawful rules and regulations established by the Management Committee shall be a default under the lease. Any Owner who sells or leases a Unit within the Project shall disclose in the advertisements, purchase or lease documents that Springbrook Villas Condominiums is a 55 year age restricted community under HOPA. An Owner's or the Owner's realtor's failure to disclose that this Project is intended to be operated for persons age 55 and older shall not prevent the Association from enforcing the age restriction policies against any Owner, Occupant and/or renter for non-compliance. Prior to the commencement of the term of a lease, the Unit Owner shall notify the Management Committee, in writing, of the name or names of the tenant or tenants and the time during which the lease term shall be in effect. Any violation of this Declaration or of such rules and regulations by a tenant shall also constitute a violation by the Unit Owner, and the Management Committee shall have the right to enforce this Declaration against the Unit Owner and such tenant.

7.2.12 Signs. No sign of any kind shall be displayed to the public view on the Project except: (a) on the Common Areas, signs regarding and regulating the use of the Common Areas, provided they are approved by the Management Committee; (b) on the interior side of the window of a Unit, one professionally prepared sign not in excess of nine square feet in size, advertising the Unit for sale or rent; (c) on the Common Areas and model Units, signs advertising the sale and/or rental of Units by the Declarant during the period of its initial sale and rental of Units or (d) signs expressly approved by the Management Committee in the Association rules. Notwithstanding the foregoing limitations, Units not facing the street may display one (1) "For Sale" or "For Rent/Lease" sign on Common Areas visible from the street. All "For Sale" or "For Rent/Lease" signs in the Project for "Qualifying Units" (as such term is defined in Section 8.5.1 below), whether placed by an Owner or by a realtor, shall prominently display that this is a "55 YEAR AGE RESTRICTED COMMUNITY".

7.2.13 Vehicles. The Management Committee may establish rules and regulations restricting or prohibiting the parking of automobiles, vans, buses, inoperable vehicles, trucks, trailers, boats, and recreational vehicles on the Common Areas, or parts thereof, and may enforce such regulations or restrictions by levying enforcement charges, having such vehicles towed away, or taking such other lawful actions as it, in its sole discretion, deems appropriate.

7.2.14 Replacements. Any Building erected to replace an existing Building containing Units shall be of new construction, shall be of comparable structure, type,

size, design, and construction to that replaced, and shall contain a like number of Units of comparable size to the Units in the Building replaced.

7.2.15 Discrimination/Handicapped Accommodation. No action shall at any time be taken by the Association, its Board, or the Management Committee which in any manner would discriminate against any Unit Owner in favor of another. In addition, notwithstanding any provision hereof, or any rule or regulation, the Management Committee shall make reasonable accommodation if necessary to afford a handicapped person equal opportunity to use and enjoy the Project as compared to any other Unit Owner, provided that nothing contained herein shall be construed to mean or imply that any such accommodation be at the cost of the Association.

7.2.16 Architectural Control. No building, fence, wall, sign, patio, or other structure or improvement shall be commenced, erected, or maintained upon the Property, or any part thereof, nor shall any exterior addition to or change or alteration therein be made, until the plans and specifications showing the nature, kind, shape, height, materials, color, and location of the same shall have been submitted to and approved in writing by the Management Committee or its designated representative or representatives, in its or their sole and unfettered discretion. Nothing visible to the exterior shall be permitted to be hung, placed, displayed or maintained in Limited Common Areas unless approved, in writing, by the Management Committee or its designated representative or representatives, in its or their sole and unfettered discretion, or unless the same is authorized by existing rules or regulations adopted by the Management Committee.

7.2.17 No Fences. Except for fences that Developer erects in its construction of the Units, no fences, walls, or other barriers shall be permitted for the purpose of enclosing or demarcating any property line boundaries. Moreover, Owners shall not modify or change the height, material or color of any fence, or attach any improvements thereto, other than the matching gate, without the prior written approval of the Board, which approval may be withheld in the Board's sole and exclusive discretion.

7.2.18 Rules and Regulations. In addition to adopting and enforcing rules and regulations in the instances specifically hereinbefore mentioned, the Management Committee may, from time to time, adopt and enforce such further reasonable rules and regulations as it deems necessary or desirable to promote harmony, to serve the best interests of the Unit Owners, as a whole, and the Association, and to protect and preserve the nature of the Project. A copy of all rules and regulations shall be furnished by the Management Committee to the Owner(s) of each Unit prior to the time when the same shall become effective.

7.2.19 Parking/Vehicles.

7.2.19.1 Unless otherwise expressly authorized under governing municipal codes or ordinances, no boats, trailers, motor homes, trucks (larger than a 3/4 ton pickup), travel trailers, or any vehicle with commercial advertising may be parked on any street or driveway of the Project overnight. Other vehicles used

for recreation (van conversions/RVs) and not garage-able, will be permitted to park in the Limited Common Areas of a Unit (in front of the garage) for only forty-eight (48) hours, to allow for loading and unloading. Such vehicles must not exceed twenty (20) feet in length and must not block normal access of other residents. Commercial moving vans, when conducting contract business, and commercial trucks when in the Project to perform service or repair work are an authorized exception. All parking by Owners, Occupants, or their guests must be: (a) within the garage, (b) in the Limited Common Area in front of the garage door of the Unit occupied by such persons, (c) in the parking spaces at the clubhouse area, or (d) on the side drive in such a manner so as not to block any other residents access to a garage or street. **PARKING IS PROHIBITED IN THE "TURN-AROUND" AREAS AT THE END OF ANY DRIVEWAY.** No vehicle may be parked in the clubhouse parking areas for more than forty-eight (48) consecutive hours. Vehicles parked there for more than forty-eight (48) consecutive hours are subject to being towed. No parking is allowed in the overflow parking areas except for visitors, guests or invitees who obtain parking permits from the Management Committee or any "Roads Committee" that may be formed by the Board.

7.2.19.2 Inoperable vehicles (with flat tires, expired license tags, etc.), or vehicles which cannot be identified as belonging to a resident which are parked in any Common Areas, including Limited Common Areas, for more than 48 consecutive hours may be towed off the Project at the vehicle owner's expense. No repair work is permitted on vehicles in Common Areas, including Limited Common Areas, except for short-term emergency work (flat tire, battery charge, etc.).

7.2.19.3 No vehicle shall be parked in any manner which blocks any street or driveway of the Project, or the ingress/egress to any garage other than the Unit owned by the owner of the vehicle. Reckless operation, excessive speed, and parking or driving on the lawn areas is prohibited.

## **ARTICLE VIII**

### **OWNERSHIP AND CONVEYANCE OF UNITS AND COMMON AREAS**

8.1 Ownership of a Unit: The Owners of a Unit in Phase I of the Project shall be entitled to the exclusive fee simple ownership and possession of their Unit, to the exclusive possession of any Limited Common Areas appurtenant to their Unit, and to the fee simple ownership of an equal undivided interest in the Common Areas. Units may and shall be owned as any other property rights by persons in the form of tenancy in common or joint tenancy. Nothing in this Declaration shall be construed to prohibit an Owner from transferring his ownership interest in trust, to a family limited partnership, or in another form of legal entity for the benefit of the Owner or his family.

8.2 No Subdivision or Combination of Units: No Unit Owner may sub-divide or partition his Unit or his undivided share of the Common Areas. No Unit Owner may combine

his Unit with another Unit to make a larger Unit. No part of a Unit may be separated from any other part thereof during the period of Project ownership prescribed herein. Every gift, devise, bequest, transfer, encumbrance, conveyance or other disposition of a Unit or any part thereof shall be construed to be a gift, devise, bequest, transfer, encumbrance, or conveyance, respectively, of the entire Unit, together with all appurtenant rights created by law or by this Declaration.

**8.3 Nature of Ownership of Common Areas as Between Owners of Different Units and as Between Multiple Owners of A Single Unit:** The Common Areas, as between the Owner(s) of one Unit and the Owner(s) of another Unit shall be owned by the Unit Owners as tenants in common; provided, however, that if a Unit is owned by two or more Owners, the interests in the Common Areas attributable to such Unit shall be held as between such Owners in the same manner as they hold the ownership of the Unit. The Common Areas shall remain undivided. No Unit Owner or combination of Unit Owners shall bring any action for partition or division of the Common Areas.

**8.4 Conveyance:** The undivided interest of a Unit in the Common Areas shall be deemed to be conveyed or encumbered with the Unit even though that interest is not expressly mentioned or described in the deed, Mortgage, or other instrument of conveyance or encumbrance. Any conveyance, encumbrance, judicial sale, or other transfer (voluntary or involuntary) of an interest in the Common Area will be void unless the Unit to which that interest is allocated is also transferred to the same transferee. The right of a Unit Owner to sell, transfer, or otherwise convey that Owner's Unit is not subject to any right of first refusal, and any Unit Owner may transfer that Owner's Unit free of any such limitation. To enable the Association to maintain accurate records of the names and addresses of Unit Owners, each Unit Owner agrees to notify the Association, in writing, within five (5) days after an interest in that Unit Owner's Unit has been transferred to another person. In addition, each Unit Owner agrees to provide to a purchaser of that Owner's Unit a copy of the Condominium Documents and all effective rules and regulations.

**8.5 Age Restrictions on Rental and Initial Sale of Units:**

**8.5.1** The rental and initial sale of Units by Declarant shall be restricted such that, when all sixty-four (64) Phase I Units have been rented or initially sold by Declarant, at least fifty-two (52) of those Units ("Qualifying Units"), the identity of which qualifying Units shall be determined exclusively by Declarant, shall have been rented or initially sold by Declarant either: (i) to an individual who, at the time of such rental or initial sale, was at least 55 years of age, or (ii) in the case of multiple purchasers of a Unit, to purchasers at least one of whom was an individual at least 55 years of age at the time of such rental or initial sale (collectively "Age 55 Criteria"). Similarly, should the Project be expanded to include the Additional Property, when all sixty-two (62) Phase II Units have been rented or initially sold by Declarant, sales and rental activities by Declarant shall be such that at least fifty (50) of those Units shall also be Qualifying Units. There shall be no minimum or maximum number of Qualifying Units that may be rented as opposed to sold by Declarant; provided, however, that, if and when Declarant sells a Unit that Declarant has been renting and whose inclusion was necessary to achieve

a minimum number of Qualifying Units, Declarant may sell that Unit only to a purchaser or purchasers meeting one of the Age 55 Criteria.

8.5.2 After Declarant's conveyance of all Units in the Project, at least eighty percent (80%) of the occupied Units within the Project shall be occupied by at least one (1) person not less than fifty-five (55) years of age. Each Owner hereby agrees and acknowledges that in the event he or she purchased a Qualifying Unit, he or she shall be bound by the Age 55 Criteria and the Owner's rental and sale of such Qualifying Unit shall be restricted by the Age 55 Criteria. To the extent required by any applicable Federal or State law, at no time shall less than eighty (80%) percent of the Units subject to this Declaration be occupied by single families where at least one member of the single family is fifty (55) years of age or older. For the purposes of this Section 8.5, a Unit is "occupied" when an Owner or Occupant has possession of the Unit and has the right to actually use or control such Unit. In compliance with HOPA, during the Declarant Control Period as set forth in Section 27.1 below, and thereafter the Association, shall (i) publish and adhere to Age 55 Criteria policies and procedures that demonstrate the intent to operate this Project as a community for persons who are 55 years of age or older as such intent is set forth in this Section 8.5; and (ii) shall establish policies for age verification of each Owner or Occupant by reliable surveys and affidavits, which surveys and affidavits shall be of the type that may be admissible in administrative and judicial proceedings for the purposes of such verification, such as a driver's license, birth certificate, passport, immigration card or military identification. The only exception to the Age 55 Criteria as applied to the eighty percent (80%) of Units occupied by persons age 55 or older is for the non-age qualified surviving spouse of an age-qualified decedent Owner who had occupied the Qualified Unit, until such time as the non-age qualified surviving spouse remarries at which time the exception expires.

## ARTICLE IX

### UNIT OWNERS ASSOCIATION MEMBERSHIP AND VOTING

9.1 Establishment of Association: The Association has been formed to be and to serve as the Unit Owners Association of the Project. The Declarant is presently the sole member of the Association.

9.2 Membership: Every Owner shall be a member of the Association. If title to a Unit is held by more than one person, the membership related to that Unit shall be shared by all such persons in the same percentage as their percentage interest in the Unit. Each such membership shall be appurtenant to the Unit upon which it is based and shall be transferred automatically by conveyance of that Unit and the Association shall record the transfer on its books upon being presented with evidence of the transfer of the Unit. No person or entity other than an Owner may be a member of the Association, and a person or entity who holds an interest in a Unit merely as security for the performance of an obligation shall not be deemed a member of the Association. A membership in the Association may not be transferred except in connection with the transfer of a Unit; provided, however, that the rights of membership may be assigned as further security for a loan secured by a Mortgage on a Unit. Further, a contract purchaser of a Unit, while not constituting a Member of the Association, shall have the right to

use the Common Areas and the right to vote the Membership interest of the Owner whose Unit interest he or she is purchasing if such purchaser has a written proxy from such Owner. In the event the Owner of any Unit should fail or refuse to transfer the membership registered in his name to the purchaser of such Unit upon transfer of fee title thereto, the Board shall have the right, but not the obligation, to record the transfer upon the books of the Association. The Board shall have the right to charge a reasonable special assessment against any Owner, and against his Unit, equal to the cost of the Association of effectuating any such transfer of his membership upon the books of the Association.

9.3 Voting Rights: The Management Committee shall maintain a list of Owners which shall be updated on a regular basis. Disputes over the membership list shall be resolved by reference to the official records in the office of the County Recorder of Utah County, Utah. At a meeting of the Association, the Owners of each Unit shall, collectively, be entitled to vote, in person or by proxy, one vote for each Unit owned. The Board, from time to time, may suspend the right of a member to vote with respect to his, her, or its Unit for failure to pay assessments when due, or for failure to observe other of the terms hereof, the Bylaws, or rules and regulations of the Association. Such suspension shall be accomplished pursuant to rules and regulations duly adopted by the Board from time to time.

9.4 Manner of Voting: The vote of each Unit shall be cast by the Owner or Owners of such Unit in person or by proxy in the manner specified in the Bylaws. In the event there is more than one Owner of a particular Unit, the vote relating to such Unit shall be exercised by a majority of such Owners as may be determined among themselves. A vote cast at any meeting by any of such Owners shall be conclusively presumed to be the vote attributable to all Owners of the Unit concerned, whether or not all Owners of the Unit are present, unless an objection is immediately made by another Owner of the same Unit or such vote is in conflict with a written proxy given by another Owner of the Unit. In the event of such a conflict or objection, the vote involved shall not be counted for any purpose whatsoever until the matter is resolved to the reasonable satisfaction of the Board. In such case, the Board may, but shall not be required to, apportion such Unit's vote among the Owners thereof.

9.5 Transfer: The Association shall maintain records showing the name and address of each Owner and the Unit which is owned by him or her. In the event of any transfer of a fee interest in a Unit, either the transferor or the transferee shall furnish the evidence establishing that the transfer has occurred. An Owner who fails to furnish such information shall continue to be liable for assessments of Common Expenses, even after transferring ownership of his Unit, until the Association is advised of the transfer. At its option, the Association may act and rely on current ownership information respecting any Unit or Units which is obtained from the office of the County Recorder of Utah County, Utah. The address of an Owner shall be deemed to be the address of the Unit owned by such Owner unless the Association is otherwise advised.

## ARTICLE X

### MANAGEMENT OF ASSOCIATION

10.1 Incorporation: The Association shall be incorporated as a Utah nonprofit corporation. Management of any such corporation shall substantially conform to this Article X,



although it is understood that additional provisions for the operation of the Association that are not in conflict with this Declaration may be contained in the Bylaws.

10.2 Board of Directors: Subject to the rights of Declarant described in Article XXVII below and elsewhere in this Declaration, the business, property and affairs of the Association shall be managed, operated, and maintained by the Board acting as the Management Committee and by any Manager they may designate. Subject to the rights of Declarant set forth in Article XXVII and elsewhere in this Declaration below, the Management Committee, acting for and on behalf of the Association, shall have, and are hereby granted, the following authority and powers:

10.2.1 Without the vote or consent of the Owners or any other persons, the Management Committee may grant or create, to the extent permitted by law and on such conditions as it deems advisable, utility, access and similar easements, over, under, across and through the Common Areas, and shall be obligated to grant that certain access easement contemplated by the Access Agreement described in Section 11.12 below;

10.2.2 The Management Committee may execute and record, on behalf of all Owners, any amendment to the Declaration or Plat which has been approved by any vote or consent necessary to authorize such amendment;

10.2.3 The Management Committee shall have the authority to enforce this Declaration on behalf of the Association and its Members;

10.2.4 The Management Committee shall have authority to enter into contracts which in any way concern the Project on behalf of the Association;

10.2.5 The Management Committee shall have authority to purchase, otherwise acquire, and accept title to, in the name of the Association, any personal property and/or interest in real property, and to convey or transfer any interest in real property, so long as such action has been authorized by any vote or consent of the Owners which may be necessary under the circumstances;

10.2.6 The Management Committee may add any interest in real property obtained pursuant to subparagraph 10.2.5 immediately above to the Project, so long as such action has been authorized by any necessary vote or consent of the Owners;

10.2.7 The Management Committee, as the Board may adopt Bylaws of the Association;

10.2.8 The Management Committee may promulgate, from time to time, such reasonable rules, regulations, and procedures as may be necessary or desirable to aid in carrying out the Association's functions and/or to govern the reasonable use, maintenance, and operation of the Project, including without limitation those certain rules, regulations and age verification polices described in Section 8.5 above and is expressly authorized in accordance with § 57-8-37 of the Act to assess a fine against a Unit Owner after the requirements of § 57-8-37(2) of the Act have been met for a

violation of the rules and regulations of the Association which have been promulgated in accordance with the Act, this Declaration and the Bylaws;

10.2.9 The Management Committee shall have authority to maintain, repair, replace, restore, operate, and manage the Common Areas and all property that may be acquired by the Association, to appoint a Manager in regard to such activities, and to establish an adequate reserve fund for repair, replacement, and restoration thereof;

10.2.10 The Management Committee shall have authority to secure fidelity bond coverage and such other policy or policies of insurance as the Management Committee deems necessary or desirable in protecting the interests of the Association and the Owners; and

10.2.11 The Management Committee may perform any other acts and may enter into any other transactions which are permitted by the Bylaws, which may be deemed reasonably necessary by the Board for the Board of Directors to perform its function, and which the Act shall permit.

10.3 Composition of Board: The initial number of Directors on the Board shall be three (3) and, until the Declarant Control Period has expired, all Directors, unless Declarant otherwise agrees in writing, will be appointed by Declarant. If the Declarant relinquishes its right to appoint the Directors of the Board or its right to do so is otherwise terminated in accordance with the provisions of 27.1 below, the Board at the time of such relinquishment or termination shall continue in office until the next special or annual meeting of Members who shall then have authority to elect a new Board of up to seven (7) Directors in accordance with the Association's Bylaws. The newly elected Directors shall be Owners (or an officer, director, or agent of a non-individual Owner). The Board may increase or decrease the number of Directors at any meeting of the Association.

10.4 Filling of Vacancies: The terms of the Directors elected after Declarant relinquishes its right to appoint the Directors of the Board as described in paragraph 10.3 above shall be staggered so that the terms of one-third of the Directors will expire and successors will be elected at each annual meeting of the Association as provided in the Bylaws. Thereafter, at such annual meetings, successors to the Directors whose terms then expire shall be elected to serve terms of three (3) years. Notwithstanding the foregoing, but subject to the Declarant Control Period, the Members, by the vote of Members exercising not less than a majority of the voting power of Members, may, from time to time, change the number and terms of Directors, provided, that in any such event the terms of not less than one-third of the Directors shall expire annually.

10.4.1 Directors shall serve until their successors have been duly elected and qualified unless removed in accordance with the Bylaws. Any Director who fails on three (3) successive occasions to attend Board meetings (whether regular or special) shall automatically forfeit his or her seat. Excepting only Directors named in the Articles or selected by Declarant, any Director may be removed from the Board with or without cause, by a majority vote of the Unit Owners.

10.4.2 Subject to the Declarant Control Period and the Bylaws, any vacancy occurring on the Board prior to an annual meeting shall be filled by the affirmative vote of the remaining Directors until the next annual meeting or, in the event there are no remaining Directors, by the affirmative vote of a majority of the votes of the Members at any special meeting of the Members held in accordance with the Association's Bylaws.

10.5 Manner of Exercising Votes For Directors: At any meeting, the votes exercised by the Owner or Owners of a Unit shall be the number of votes determined by multiplying the Unit's vote associated with the Unit, times the number of seats to be filled. Said votes may be voted in favor of as many candidates as there are Director seats to be filled.

10.6 Initial Board: Until the Declarant Control Period has expired, the following persons are hereby appointed by the Declarant as Directors of the Board and shall also act as the officers of the Association unless and until Declarant decides otherwise.

Larry B. Lindstrom 1923 North 300 East Lehi, Utah 84043	President-Treasurer
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Raymond B. Jenkins 9471 South McVea Ct. South Jordan, Utah 84095	Vice President
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Dave Erickson 1486 West Misty Breeze Cir Kaysville, Utah 84037	Secretary
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10.7 Management Committee: If entered into during the period the Declarant has appointed the Board, no management contract or other contract designed to benefit the Declarant which was executed by or on behalf of the Management Committee shall be binding beyond the termination of Declarant's rights under Article XXVII below unless such contract is renewed or ratified by the consent of the Board elected by the Members following such termination of rights.

10.8 Operation of Board of Directors: Meetings of the Board may be held in person or telephonically, within or without the State of Utah. Regular meetings shall be fixed by the Board as provided in the Bylaws. Special meetings may be convened at the request of the President of the Association, the Manager (if one has been appointed by the Board), upon the request of any two Directors, or in any other manner provided by the Bylaws.

10.9 Approval Required: The Management Committee shall not, without the prior favorable vote or the written consent of all of the Owners, have the authority to purchase or sell any real property constituting the Common Areas or to add any real property to, or to remove any real property from, the Common Areas.

10.10 Additional Facilities: The Management Committee shall have the authority, with the approval or consent of a majority of Owners, to provide such facilities, in addition to those for which the provision has already been made, as it may deem to be in the best interests of the

Unit Owners and to effect the necessary amendment of documents and maps in connection therewith.

10.11 Manager: The Management Committee may appoint a Manager of the Project as contemplated by the Act. An officer or other agent of Declarant shall act as Manager of the Project so long as Declarant wishes to do so and until the Declarant Control Period has expired. Thereafter, the Management Committee may carry out through a Project Manager any of its functions which are properly the subject of delegation. Any Manager so engaged shall be responsible for managing the Project for the benefit of the Unit Owners and shall, to the extent permitted by law and the provisions of the agreement with the Management Committee, be authorized to perform any of the functions or acts required or permitted to be performed by the Management Committee. Any agreement for professional management of the Project which may be entered into by the Association shall call for a term not exceeding three (3) years and shall provide that such management agreement may be terminated by the Management Committee for cause, with such termination to be effective at such time as is set forth in a written notice to the Manager terminating the management agreement.

## ARTICLE XI

### EASEMENTS

11.1 Recorded Easements: The Project shall be subject to all easements as shown on any Plat or other recorded plat affecting the Project or the Real Property and to any other easements of record or use as of the date of recordation of this Declaration.

11.2 Easements of Enjoyment; Limitations: Every Unit Owner shall have a right and easement of enjoyment in, over, and upon the Common Areas and an unrestricted right of access to and from his, her, or its Unit, which rights and easements shall be appurtenant to and shall pass with the title to a Unit, subject to the right of the Management Committee to make reasonable rules and regulations concerning the use and management of the Common Areas, including the Limited Common Areas, provided that no such rule or regulation shall limit or prohibit the right of ingress and egress to a Unit, or any part thereof, or to that Unit's parking facilities. Each Unit Owner shall be deemed to have delegated that Unit Owner's right of enjoyment to the Common Areas and to ingress and egress to the Occupants of that Owner's Unit.

11.3 Right of Entry for Repair: The Association shall have a right of entry and access to, over, upon, and through all of the Property, including each Unit and the Limited Common Areas, to enable the Association to perform its obligations, rights, and duties pursuant hereto with regard to maintenance, repair, restoration, and/or servicing of any items, things or areas of or in the Property. In the event of an emergency, the Association's right of entry to a Unit and its appurtenant Limited Common Areas may be exercised without notice; otherwise, the Association shall give the Owners or Occupants of a Unit no less than twenty-four hours advance notice prior to entering a Unit or its appurtenant Limited Common Areas.

11.4 Easements for Encroachments: Each Unit and the Common Areas, including the Limited Common Areas, shall be subject to and shall be benefited by easements for

encroachments on or by any other Unit or the Common Areas, including the Limited Common Areas, created or arising by reason of overhangs; or by reason of deviations in construction, reconstruction, repair, shifting, settlement, or other movement of any portion of a Unit or other improvements; or by reason of errors on the Plat. Valid easements for these encroachments and for the maintenance of same, as long as the physical boundaries of the Units after the construction, reconstruction, repairs, etc. are in substantial accord with the description of those boundaries that appears on the Plat, shall and do exist so long as the encroachments remain.

**11.5 Easement For Support:** Every portion of a Building or utility line or any improvement on any portion of the Property contributing to the support of another Building, utility line, or improvement on another portion of the Property shall be burdened with an easement of support for the benefit of all other such buildings, utility lines, improvements, and other portions of the Property.

**11.6 Easements for Proper Operations:** Easements to the Association shall exist upon, over, and under all of the Property for ingress to and egress from, and the installation, replacing, repairing, and maintaining of all utilities, including, but not limited to, water, sewer, gas, telephone, electricity, security systems, master television antennas and cable television, and the road system and all walkways, and for all other purposes necessary for the proper operation of the Property. By these easements it shall be expressly permissible for the Association to grant to the appropriate public authorities and/or the providing companies and contractors permission to construct and maintain the necessary appurtenances and improvements on, above, across, and under the Property, so long as such appurtenances and improvements do not unreasonably interfere with the use and enjoyment of the Property. Should any public authority or other company furnishing a service request a specific easement, permit, or license, the Board shall have the right to grant such easement, permit, or license without conflicting with the terms hereof. In addition, in the event the Board determines that the grant of easement rights to others is in the best interests of the Association, the Association shall have the right to grant the same, provided that use of the same would not, in the sole judgment of the Board, unreasonably interfere with the use and enjoyment of the Property by Owners and Occupants.

**11.7 Easement for Services:** Non-exclusive easements are hereby granted to all police, firemen, ambulance operators, mailmen, delivery men, garbage and trash removal personnel, and all similar persons, and to the local governmental authorities and to the Association, but not to the public in general, to enter upon the Common Areas in the performance of their duties, subject to such reasonable rules and regulations as the Management Committee may establish, from time to time.

**11.8 Easements Reserved to Declarant:** Non-exclusive easements are hereby reserved to Declarant, its successors and assigns, over and upon the Common Areas and Limited Common Areas (a) for a six (6) year period of time from the date of the closing by Declarant of the first sale of a Unit to a bona fide purchaser, for access to and for the purpose of completing improvements for which provision is made in this Declaration, provided that such right of access shall be to the extent, but only to the extent, that access thereto is not otherwise reasonably available, (b) for the periods provided for any warranties hereunder or by law, for purposes of making repairs required pursuant to those warranties or pursuant to contracts of sale made with Unit purchasers, and (c) for the initial sales and rental period, but for no longer than six (6) years

from the time of the closing of the first sale of a Unit to a bona fide purchaser, to maintain and utilize one or more Units and appurtenances thereto, for sales and management offices and for storage and maintenance, and model Units, parking areas for sales and rental purposes, and advertising signs.

11.8.1 The Association, at all times, shall maintain an unimpeded route of vehicular and pedestrian ingress and egress over and upon the Property and a public street.

11.8.2 All rights and easements reserved to Declarant, its successors and assigns, pursuant to this Article, shall be exercised and utilized, as the case may be, in a reasonable manner, and in such way as not to unreasonably interfere with the operation of the Association and the rights of Owners and Occupants of Units.

11.9 Power of Attorney: Each Unit Owner, by acceptance of a deed to a Unit, appoints the Association or its designated representative, as his, her or its attorney-in-fact, to execute, deliver, acknowledge, and record, for and in the name of such Unit Owner, such deeds of easement, licenses, permits, and other instruments as may be necessary or desirable, in the sole discretion of the Board, or its authorized representative, to further establish or effectuate the foregoing easements and rights. This power is for the benefit of each and every Unit Owner, the Association, and the real estate to which it is applicable, runs with the land, is coupled with an interest, and is irrevocable.

11.10 General: The easements and grants provided herein shall in no way affect any other recorded grant or easement. Failure to refer specifically to any or all of the easements and/or rights described in this Declaration in any deed of conveyance or in any Mortgage or other evidence of obligation shall not defeat or fail to reserve said rights or easements and the same shall be deemed conveyed or encumbered, as the case may be, along with the Unit.

11.11 Association's Right to Use of Common Areas: The Association shall have a non-exclusive easement to make such use of the Common Areas as may be necessary or appropriate for the Management Committee to perform the duties and functions which it is obligated or permitted to perform pursuant to this Declaration, including the right to construct and maintain in the Common Areas maintenance and storage facilities for use by the Association.

11.12 Access Agreement; Covenant to Cooperate: As a development condition imposed upon the Project in order to create and develop the Project, the Management Committee is hereby obligated to and shall grant certain access easements over, under, across and through certain portions of the Common Areas as contemplated by that certain Access Agreement by and between the Association and Karl G. and Peggy G. Wiscombe ("Grantee") which has been or may be executed by the Management Committee on behalf of the Association ("Access Agreement"). By acceptance of a deed to a Unit, each Unit Owner hereby agrees and acknowledges that the Access Agreement does not constitute and is not designed to be a contract benefiting the Declarant as described in § 57-8-16.5(2) of the Act because the Management Committee was and is obligated to execute the Access Agreement in order for the Project to exist and the Unit Owners shall have no right to modify, renew or ratify such Access Agreement. The Association shall be bound by the terms and provisions of the Access Agreement and it is the

parties' intent to work together in good faith to fulfill their respective obligations under the Access Agreement and not to default in those obligations. The Management Committee shall reasonably cooperate with the Grantee on behalf of the Association to effectuate the purposes of the Access Agreement and shall have the right to unilaterally execute and deliver such additional documents and do such other acts as may be reasonably necessary to fully implement the intent of the Access Agreement.

## ARTICLE XII

### ASSESSMENTS

12.1 Types of Assessments: The Declarant, for each Unit within the Project, hereby covenants and agrees, and each Unit Owner by acceptance of a deed to a Unit (whether or not it shall be so expressed in such deed) is deemed to covenant and agree, to pay to the Association: (a) annual Common Assessments, (b) special assessments for capital improvements, and (c) special individual Unit assessments, all of such assessments to be established and collected as hereinafter provided.

12.2 Purpose of Assessments: The assessments levied by the Association shall be used exclusively to promote and provide for the health, safety, and welfare of Unit Owners and Occupants and the best interests of the Property.

12.3 Elements-Appportionment and Due Dates:

12.3.1 Annual Common Assessments.

12.3.1.1 Within sixty (60) days following the closing of the sale of the first Unit by Declarant, or earlier if Declarant so decides, the Board shall estimate, and prorate among all Units and their Owners on the basis of the undivided interest of each Unit in the Common Areas, Common Expenses of the Association, consisting of, but not limited to, the following:

(a) the estimated next budget year's cost of the maintenance, repair, any amount necessary to pay real property taxes and/or other assessments coming due during the next budget year that are assessed on the Common Areas separately from those assessed on the Units, any amount necessary to pay personal property taxes and/or other assessments coming due during the next budget year that are assessed on any personal property owned by the Association, and other services to be provided or paid for by the Association;

(b) the estimated next budget year's costs for insurance premiums to be provided and paid for by the Association;

(c) the estimated next budget year's costs for utility services not separately metered or charged to Unit Owners (if the utilities increase, then the Common Assessment shall be increased by a prorated amount as the Board shall determine in its reasonable business judgment);

(d) the estimated amount required to be collected to maintain a working capital reserve fund (which amount shall be separate from the amount collected for capital improvement reserves as described in Section 12.3.1.1(e) below), to assure availability of funds for normal operations of the Association, in an amount deemed adequate by the Board, but in no event less than an amount equal to two months' currently estimated assessments on all Units;

(e) an amount deemed adequate by the Board to maintain a reserve for the cost of unexpected repairs and replacements of capital improvements and for the repair and replacement of major improvements for which cash reserves over a period of time in excess of one year ought to be maintained;

(f) the estimated next budget year's costs for the operation and administration of the Association, including, but not limited to, fees for property management, fees for legal and accounting services, costs of mailing, postage, supplies and materials for operating the Association, and the salaries, wages, payroll charges, and other costs to perform these services, and any other costs constituting Common Expenses not otherwise herein specifically excluded; and

(g) an amount deemed adequate by the Declarant to reimburse Declarant for any funds expended on behalf of the Association for construction, maintenance, repair or replacement of the Common Areas.

12.3.1.2 The Board shall thereupon allocate to each Unit that Unit's share of all of these items, prorated in accordance with each respective Unit's undivided interest in the Common Areas, and thereby establish the annual operating assessment for each separate Unit. For administrative convenience, any such assessment may be rounded so that monthly installments will be in whole dollars.

12.3.1.3 The annual Common Assessment shall be payable in advance, in equal monthly installments, provided that nothing contained herein shall prohibit any Unit Owner from prepaying assessments in annual, semiannual, or quarterly increments. The due dates of any such installments shall be established by the Board, or, if it fails to do so, an equal monthly pro rata share of the annual operating assessment for a Unit shall be due the first day of each month.

12.3.1.4 If the amounts so collected are, at any time, insufficient to meet all obligations for which those funds are to be used, the deficiency shall be assessed by the Board among the Units on the same basis as heretofore set forth.

12.3.1.5 If Common Assessments collected during any budget year are in excess of the funds necessary to meet the anticipated expenses for which the same have been collected, the excess shall be retained as reserves, or as



reductions in future assessments, as determined by the Board, in its sole discretion, and shall in no event be deemed profits nor available, except on dissolution of the Association, for distribution to Unit Owners.

12.3.1.6 During the Declarant Control Period, Declarant shall not use any part of the working capital reserve fund described in Section 12.3.1.1(d) above to defray Declarant's expenses, reserve contributions or construction costs, or to make up Declarant's budget deficits, if any, and shall maintain the working capital reserve fund in a segregated account and shall transfer the same to the Association at or prior to the time Unit Owners other than Declarant control the Association. Each Unit's share of the working capital reserve fund described in Section 12.3.1.1(d) above shall be collected either at the time the sale of the Unit is closed or when control of the Association of the Unit is vested in a Unit Owner other than Declarant, whichever is earlier, without prejudice to Declarant's right to recover its contribution from purchasers of Units from Declarant subsequent to such vesting of control.

### 12.3.2 Special Assessments for Capital Improvements:

12.3.2.1 In addition to the annual Common Assessments, the Board may levy, at any time, special assessments to construct, reconstruct, or replace capital improvements of the Common Areas to the extent that reserves therefor are insufficient. However, except for new capital improvements that must be made to comply with applicable law or to correct any condition creating a safety or health hazard to Occupants, new capital improvements that do not replace existing improvements shall not be constructed, nor shall funds be assessed therefor, in any budget year without the prior approval of at least a sixty-seven percent (67%) vote of the Unit Owners, if the cost of such new improvements would exceed twenty percent (20%) of that year's budget.

12.3.2.2 Any such special assessment shall be prorated among all Units in proportion to their respective undivided interests in the Common Areas, and shall become due and payable on such date or dates as the Board determines following written notice to the Unit Owners.

12.3.3 Special Individual Unit Assessments. The Board may levy assessments against an individual Unit, or Units, and the Owner or Owners thereof, to reimburse the Association for those costs incurred in connection with that Unit or Units properly chargeable by the terms hereof to a particular Unit (such as, but not limited to, the cost of making repairs that are the responsibility of a Unit Owner, and a Unit Owner's interest, late charges, enforcement charges, and arbitration charges). Any such assessment shall become due and payable on such date as the Board determines and sets forth in a written notice to the Unit Owners subject thereto. Additionally, during the first years of the Project's existence, and until such time as real estate taxes and assessments are split into separate tax bills for each Unit, the Association shall have the right to pay the real estate taxes and assessments attributable to the Property in the event the same have not been paid, when due, and assess each Unit Owner for his, her, or its share of such real estate

taxes and assessments as a special individual Unit assessment. The share of those taxes and assessments attributable to a Unit shall be computed by multiplying the total taxes and assessments for all of the Property by the undivided interest in Common Areas attributable to that Unit. The calculation by the Association of the Units' shares of taxes and assessments shall be binding upon all Unit Owners.

12.3.4 Declarant Subsidy. Notwithstanding any other provision of this Declaration to the contrary, during the Declarant Control Period, Declarant reserves the right, in its sole and exclusive discretion, to subsidize the Association (rather than paying a full assessment share for each Unit it owns) for the amount by which (i) the actual cost and expense of operating and administering the Association and maintaining reasonable reserves for maintenance, replacement and repairs and for contingencies, all as provided in this Declaration, exceeds (ii) the total amount of assessments levied against and collected from Unit Owners other than Declarant. The subsidy required of Declarant under this Section may be in the form of cash or in the form of "in-kind" contributions of goods or services, or in any combination of the foregoing, provided that "in-kind" contributions of goods or services must directly reduce the Association's costs and expenses for which an assessment is being levied. Declarant shall make payments or contributions in respect to its subsidy obligations under this Section at such time as the Management Committee may reasonably request from time to time as necessary to ensure that there are sufficient funds available for payment of Association costs and expenses and accumulation of adequate reserves (but in any event not more often than monthly). At the end of each budget year, either: (i) Declarant shall pay or contribute to the Association such additional funds, goods or services (or any combination thereof) as may be necessary, when added to all other funds, goods and services paid or contributed by Declarant during such budget year, to satisfy in full Declarant's subsidy obligations under this Section for such budget year; or (ii) the Association shall pay to Declarant or credit against Declarant's subsidy obligation for the immediately following budget year, as Declarant may elect, the amount, if any, by which the total of all payments or contributions paid or made by Declarant during such budget year exceeded the total subsidy obligation of Declarant for such budget year under this Section. Within thirty (30) days of the end of each budget year, the Management Committee shall make an accounting of the Declarant's subsidy obligations for that period, what amounts have been paid by Declarant (in cash, goods or services) with respect to such obligations, and what amounts are due. A copy of the accounting shall be made available for review by Association members upon request.

12.4 Effective Date of Assessment: Any assessment created pursuant hereto shall be effective, provided it is created as provided herein, if written notice of the amount thereof is sent by the Board to the Unit Owner subject thereto at least ten (10) days prior to the due date thereof, or, if it is to be paid in installments, the due date of the first installment thereof. Written notice mailed or delivered to a Unit Owner's Unit shall constitute notice to that Unit Owner, unless the Unit Owner has delivered written notice to the Board of a different address for such notices, in which event the mailing of the same to that last designated address shall constitute notice to that Unit Owner.

12.5 Effect of Nonpayment of Assessment; Remedies of The Association:

12.5.1 If any installment of an assessment assessed by the Board is not paid within ten (10) days after the same is due, the entire unpaid balance of the assessment shall immediately become due and payable, without demand or notice, unless the Board, in its sole discretion, determines not to accelerate the installments.

12.5.2 If any installment of an assessment is not paid within ten (10) days after the same is due, the Board, at its option, and without demand or notice, may (i) charge interest on the entire unpaid balance (including the accelerated portion thereof) at such rate as the Board, from time to time, establishes by rule; or, if the Board fails to establish a rate by rule, at the rate of eight percent (8%) per annum, (ii) charge a reasonable, uniform, late fee, as established from time to time by the Board, by rule, and (iii) charge the cost of collection, including attorney fees and other out-of-pocket expenses.

12.5.3 Annual Common Expenses and both types of special assessments, together with interest, late fees, and costs, including attorney fees, shall be a charge and lien in favor of the Association upon the Unit against which each such assessment is made.

12.5.4 At any time after any assessment or an installment of an assessment levied pursuant hereto remains unpaid for thirty (30) or more days after the same has become due and payable, a certificate of lien for the unpaid balance of that assessment, including all future installments thereof, interest, late fees, and costs, including attorney fees, may be filed with the office of the County Recorder of Utah County, Utah, pursuant to authorization given by the Board. The certificate shall contain a description or other sufficient legal identification of the Unit against which the lien exists, the name or names of the record Owner or Owners thereof, and the amount of the unpaid portion of the assessments and charges, and shall be signed by the president or other chief officer of the Association.

12.5.5 The lien provided for herein shall continue for a period of five (5) years unless it is renewed by the Association prior to the expiration of the five (5) year period, in which event it shall be extended for an additional five (5) years subject to further right of renewal by the Association, or unless it is sooner released or satisfied in the same manner provided by law in the State of Utah for the release and satisfaction of mortgages on real property, or discharged by the final judgment or order of a court in an action brought to discharge the lien.

12.5.6 Any Unit Owner who believes that an assessment chargeable to his, her, or its Unit has been improperly charged against that Unit, may bring an action in the court of competent jurisdiction of the county in which the Property is located for the discharge of that lien. In any such action, if it is finally determined that all or a portion of the assessment has been improperly charged to that Unit, the court shall make such order as is just, which may provide for a discharge of record of all or a portion of that lien.

12.5.7 Each such assessment, together with interest, late fees, and costs, including attorney fees, shall also be the joint and several personal obligation of the Unit Owners who owned the Unit at the time when the assessment fell due.

12.5.8 The Association, as authorized by the Board, may file a lien or liens to secure payment of delinquent assessments, interest, late fees, and costs, including attorney fees, bring or join in an action at law against the Owner or Owners personally obligated to pay the same, and bring an action to foreclose a lien in conformance with Utah law, or do any one or more of these. In any foreclosure action, the Owner or Owners affected shall be required to pay a reasonable rental for that Unit during the pendency of such action to the extent permitted by law. The Association in any foreclosure action involving a Unit or Units shall be entitled to become a purchaser at the foreclosure sale. In any such foreclosure action, interest and costs of such action (including attorneys' fees) shall be added to the amount of any such assessment, to the extent permitted by Utah law.

12.5.9 No claim of the Association for assessments and charges shall be subject to setoffs, off sets, or counterclaims.

12.5.10 No Owner may waive or otherwise escape liability for the assessments provided for in this Declaration by non-use of the Common Areas, or any part thereof, or by abandonment of his, her or its Unit.

12.5.11 Assessments shall run with the land, are necessary to continue the care, repair and maintenance of Units and their undivided interests in the Project, and to continue to provide utility and security service, and, accordingly, assessments accruing or becoming due during the pendency of bankruptcy proceedings shall constitute administrative expenses of the bankruptcy estate to the extent permitted by law.

12.6 Subordination of The Lien to First Mortgages: The lien of the assessments and charges provided for herein shall be subject and subordinate to the lien of any duly executed First Mortgage on a Unit recorded prior to the date on which such lien of the Association is recorded and any holder of such First Mortgage which comes into possession of a Unit pursuant to the remedies provided in the First Mortgage, foreclosure of the First Mortgage, or deed or assignment in lieu of foreclosure, and any purchaser at a foreclosure sale, shall take the Unit free of any claims for unpaid installments of assessments and charges against the Unit which (i) are so subordinate to such First Mortgage and (ii) became due and payable prior, in the case of foreclosure, to the date of the sale, and, in all other cases, to the date legal title vested in the successor Owner by virtue of such process. The foregoing will not relieve any successor Owner from the obligation for assessments accruing thereafter.

12.7 Certificate Regarding Assessments: The Board shall, upon demand, for a reasonable charge, furnish a certificate signed by the president, treasurer, secretary or other designated representative of the Association, setting forth whether the assessments on a specified Unit have been paid. This certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

12.8 Encumbrances: Any encumbrancer holding a lien on a Unit may pay any amounts secured by the lien created by this Article, and upon such payment such encumbrancer shall be subrogated to all rights of the Association with respect to such lien, including priority.

12.9 Effect of Conveyance: In any voluntary conveyance, except to a First Mortgagee in lieu of foreclosure of the First Mortgage, the grantee of a Unit shall be jointly and severally liable with the grantor for all unpaid Common Assessments or special assessments against the Unit for his share of the Common Expenses up to the time of the grant or conveyance, without prejudice to the grantee's rights to recover from the grantor the amounts paid by the grantee. However, any such grantee shall be entitled to a statement from the Management Committee setting forth the amounts of the unpaid assessments against the grantor, and such grantee shall not be liable for, nor shall the Unit conveyed be subject to a lien for, any unpaid assessments against the grantor in excess of the amount set forth.

12.10 Certificate of Indebtedness: The Management Committee shall, upon written request of any Unit Owner or any encumbrancer or prospective encumbrancer of a Unit, upon payment of a reasonable fee not to exceed Ten Dollars (\$10.00), issue to the person or persons requesting, a written statement setting forth the unpaid assessments with respect to the Unit covered by the request, which statement shall be conclusive upon the remaining Unit Owners and upon the Manager and Management Committee in favor of all persons who rely thereon in good faith. Any encumbrancer holding a lien on a Unit may pay any unpaid assessments payable with respect to such Unit and upon such payment that encumbrancer shall have a lien on that Unit of the same rank as the lien of his encumbrance.

12.11 Tenant Recovery: If a Unit Owner shall at any time let or sublet his Unit and default for a period of one month or more in the payment of any assessments, the Association may, at its option, so long as such default shall continue, demand and receive from such tenant or subtenant or property manager the rent due or becoming due under such tenancy. The payment of such sum shall, to the extent of such payment, discharge such tenant or subtenant's or property manager's rental obligation to the Unit Owner and shall, to the extent of such payment, discharge said Unit Owner's obligation for unpaid assessment(s) and costs to the Association.

12.12 Statement of Account: Upon payment of a reasonable fee and upon written request of any Owner or any lien holder, prospective lien holder, or prospective purchaser of a Unit, the Management Committee shall issue, within twenty (20) days following such request, a written statement setting forth: (i) the amount of the unpaid assessments, if any, with respect to such Unit; (ii) the amount of the current yearly Common Assessment and the date that such assessment becomes or became due, and (iii) any credit for advanced payments or prepaid items, including, but not limited to, an Owner's share of prepaid insurance premiums. Such statement shall be conclusive upon the Association in favor of persons who rely thereon in good faith. Unless such request for a statement of account shall be complied with within twenty (20) days, all unpaid assessments which became due prior to the date of making such request shall be subordinate to the lien of a Mortgage which acquired its interest subsequent to requesting such statement. Where a prospective purchaser makes such request, both the lien for such unpaid assessments and the personal obligation of the purchaser shall be released automatically if (i) the statement is not furnished within such twenty (20) day period and within ten (10) days after an additional written request is made by such purchaser and (ii) the purchaser subsequently acquires the Unit.

## ARTICLE XIII

### TAXES

Each Unit shall be assessed separately for all taxes, assessments, and other charges of the State of Utah, of any political subdivision, or of any special improvement district or of any other taxing or assessing authority. For the purpose of such assessment, the valuation of the Common Areas shall be apportioned among the Units in proportion to the fractional interests in Common Areas appurtenant to such Units, to the maximum extent permitted by law. The Management Committee shall furnish to the assessor all necessary information with respect to such apportionment. No forfeiture or sale of any Unit for delinquent taxes, assessments, or other governmental charges shall divest or in any way affect the title to any other Unit.

## ARTICLE XIV

### DESTRUCTION OR DAMAGE

14.1 Repair: Rebuild: Insurance: In the event of destruction or damage to part or all of the Buildings or other improvements in the Project, the provisions of this Article shall apply:

14.1.1 If proceeds of the insurance maintained by the Association are alone sufficient to repair or reconstruct the damaged or destroyed improvement, such repair or reconstruction shall be promptly carried out.

14.1.2 If less than 75% of the Project's Buildings and other improvements are destroyed or substantially damaged, and if proceeds of the insurance maintained by the Association are not alone sufficient to accomplish repair or reconstruction, restoration shall be carried out and all of the Unit Owners shall be subject to a special assessment for any deficiency.

14.1.3 If 75% or more of the Project's Buildings and other improvements are destroyed or substantially damaged, if proceeds of the insurance are not alone sufficient to accomplish restoration, and if the Unit Owners and Eligible Mortgagees do not, within 100 days after the destruction or damage by a 75% vote of the voting rights of the Association, elect to repair or reconstruct the affected improvements by a 75% vote of the voting rights of the Association and 51% vote of the voting rights of the Eligible Mortgagees (based upon one vote for each Mortgage held), then the Association shall promptly record with the Utah County Recorder a notice setting forth such facts. Upon the recording of such notice the provisions of subparagraphs (1) through (4) of § 57-8-31 of the Act shall apply and shall govern the rights of all parties having an interest in the Project or any of the Units.

14.1.4 If 75% or more of the Project's improvements are destroyed or substantially damaged, if proceeds of the insurance are insufficient to accomplish restoration, and if the Unit Owners do not, within 100 days after the destruction or damage and by a 75% vote of the voting rights of the Association, elect to repair or reconstruct the affected improvements, the Association shall promptly record with the

office of the County Recorder of Utah County, Utah a notice setting forth such facts. Upon the recording of such notice the provisions of subparagraphs (1) through (4) of §57-8-31 of the Act shall apply and shall govern the rights of all parties having an interest in the Project or any of the Units.

14.1.5 Any reconstruction or repair which is required to be carried out by this Article shall be accomplished at the request and direction of the Management Committee. Any determination which is required to be made by this Article regarding the extent of damage to or destruction of the Project shall be made as follows: The Management Committee shall select three appraisers; each appraiser shall independently estimate the percentage of Project Buildings and other improvements which have been destroyed or substantially damaged; the percentage which governs the application of the provisions of this Article shall be the median of the three estimates.

14.1.6 The term "reconstruction," as used in this Article, shall mean restoring the damaged Building to substantially the same condition in which it existed prior to the fire or other disaster, with each Unit and the Common Areas having the same vertical and horizontal boundaries as before.

## ARTICLE XV

### INSURANCE

15.1 Fire and Extended Coverage Insurance: The Board shall have the authority to, and shall obtain, insurance for all buildings, structures, fixtures and equipment, and common personal property and supplies now or at any time hereafter constituting a part of the Common Areas, including the Limited Common Areas, or common property of the Association, against loss or damage by fire, lightning, and such other perils as are ordinarily insured against by standard extended coverage endorsements, and all other perils which are customarily covered with respect to projects similar in construction, location, and use, including all perils normally covered by the standard "all risk" endorsement, where such is available, issued in the locale of the Property, or, if the policy does not include an "all risks" endorsement, a policy that includes the "broad form" covered causes of loss, in amounts at all times (i) that is sufficient to prevent the Unit Owners from becoming co-insurers under the terms of any applicable coinsurance clause or provision and (ii) that is not less than one hundred percent (100%) of the current insurable replacement cost of such items (exclusive of land, foundations, footings, excavations, and other items normally excluded from coverage). This insurance shall also:

15.1.1 provide coverage for built-in or installed improvements, fixtures, and equipment that are part of a Unit, and shall provide for coverage of interior walls, windows and doors, and the frames, sashes, jambs and hardware therefor, even though these improvements may be parts of Units;

15.1.2 provide that no assessment may be made under the policy against a First Mortgage lender, or its insurer or guarantor, and, that any assessment under such policy made against others may not become a lien on a Unit and its appurtenant interests superior to a First Mortgage;

15.1.3 be written in the name of the Association for the use and benefit of the Unit Owners, or its authorized representative, including any insurance trustee with whom the Association has entered into an insurance trust agreement, or any successor to such trustee, for the use and benefit of the individual Unit Owners;

15.1.4 have a deductible amount no greater than the lesser of one thousand dollars or one percent of the policy face amount;

15.1.5 be paid for by the Association, as a Common Expense;

15.1.6 contain a waiver of subrogation of rights by the carrier as to the Association, to its officers and Directors, and to all Unit Owners;

15.1.7 provide that the insurance shall not be prejudiced by any acts or omissions of individual Unit Owners who are not under the control of the Association; and

15.1.8 be primary, even if a Unit Owner has other insurance that covers the same loss.

15.2 Liability Insurance: The Association shall obtain and maintain, at the Association's cost and as a Common Expense, a commercial policy of general liability insurance covering all of the Common Areas, public ways, and any other areas under the Association's supervision, and Units, if any, owned by the Association, even if leased to others, insuring the Association, the Directors, and the Unit Owners and Occupants, with such limits as the Board may determine, but no less than the greater of (i) the amounts generally required by institutional First Mortgage holders, insurers, and guarantors for projects similar in construction, location and use, and (ii) one million dollars, for bodily injury, including deaths of persons, and property damage, arising out of a single occurrence. This insurance shall contain a "severability of interest" provision, or, if it does not, an endorsement which shall preclude the insurer from denying the claim of a Unit Owner because of negligent acts of the Association, the Board, or other Unit Owners, and shall include, without limitation, coverage for legal liability of the insureds for property damage, bodily injuries and deaths of persons resulting from the operation, maintenance or use of the Common Areas, and legal liability arising out of lawsuits related to employment contracts in which the Association is a party.

15.3 Fidelity Coverage: The Board shall obtain and maintain, at the Association's cost and as a Common Expense, fidelity insurance providing coverage for the Association against dishonest acts on the part of Directors, managers, trustees, employees, agents, and volunteers responsible for or handling funds belonging to or administered by the Association. The fidelity insurance policy must name the Association as the named insured and shall be written in an amount sufficient to provide protection, which is in no event less than the greater of (i) an amount equal to the Association's reserve funds plus three months' assessments on all Units, and (ii) the maximum amount that will be in the custody of the Association or its managing agent at any time while the policy is in force. In connection with such coverage, an appropriate endorsement to the policy to cover any persons who serve without compensation shall be added if the policy would not otherwise cover volunteers. The policy shall provide that it shall not be



canceled or substantially modified (including cancellation for non-payment of premium) without at least ten (10) days' prior written notice to the Association and any insurance trustee. Any management agent who handles funds of the Association shall maintain a policy of fidelity insurance providing coverage no less than that required of the Association, which bond or insurance policy names the Association as an additional obligee.

15.4 Hazard Insurance Carrier: Each policy of hazard insurance obtained pursuant hereto shall be obtained from an insurance company authorized to write such insurance in the State of Utah which has a "B" or better general policyholder's rating or a "6" or better financial performance index rating in Best's Insurance Reports, an "A" or better general policyholder's rating and a financial size category of "VIII" or better in Best's Insurance Reports-international edition, an "A" or better rating in Demotech's Hazard Insurance Financial Stability Ratings, a "BBBQ" qualified solvency ratio or a "BBB" or better claims-paying ability rating in Standard and Poor's Insurer Solvency Review, or a "BBB" or better claims-paying ability rating in Standard and Poor's International Confidential Rating Service. Insurance issued by a carrier that does not meet the foregoing rating requirements will be acceptable if the carrier is covered by reinsurance with a company that meets either one of the A.M. Best general policyholder's ratings or one of the Standard and Poor's claims-paying ability ratings mentioned above.

15.5 Other Association Insurance: In addition, the Board may purchase and maintain, at the Association's cost and as a Common Expense, contractual liability insurance, directors' and officers' liability insurance, and such other insurance as the Board may determine.

15.6 Insurance Representative: Power of Attorney: There may be named, under any policy obtained by the Association, as an insured on behalf of the Association, its authorized representative, including any Director with whom the Association may enter into any insurance trust agreement, or any successor to such Director, who shall have exclusive authority to negotiate losses under any such policy. Each Unit Owner, by acceptance of a deed to a Unit, irrevocably appoints the Association or such designated representative, or such successor, as attorney-in-fact for the purpose of purchasing and maintaining such insurance, including: the collection and appropriate disposition of the proceeds thereof, the negotiation of losses and execution of releases of liability; the execution of all documents; and the performance of all other acts necessary to accomplish such purpose. The Association, or such designated representative, or such successor, shall receive, hold, or otherwise properly dispose of any proceeds of insurance, in trust, for Unit Owners, as their interests may appear. This power is for the benefit of each and every Unit Owner, the Association, and the Project, and runs with the land, and is coupled with an interest.

15.7 Unit Owners' Insurance: Any Unit Owner or Occupant may carry such insurance in addition to that provided by the Association pursuant hereto as that Unit Owner or Occupant may determine, subject to the provisions hereof, and provided that no Unit Owner or Occupant may at any time purchase individual policies of insurance against loss by fire or other casualty covered by the insurance carried pursuant hereto by the Association which diminishes the Association's hazard insurance. In the event any Unit Owner or Occupant violates this provision, any diminution in insurance proceeds resulting from the existence of such other insurance shall be chargeable to the Unit Owner who acquired or whose Occupant acquired such other insurance, who shall be liable to the Association to the extent of any diminution and/or loss

of proceeds. Without limiting the foregoing, a Unit Owner or Occupant may obtain insurance against liability for events occurring within a Unit, losses with respect to personal property and furnishings, and losses to improvements owned by the Unit Owner or Occupant, provided that, if the Association obtains insurance for permanent improvements and built-in fixtures and equipment, then the insurance obtained by the Unit Owner with respect to improvements within the Unit shall be limited to the type and nature of coverage commonly referred to as "tenants" improvements and betterments. All such insurance separately carried shall contain a waiver of subrogation rights by the carrier as to the Association, its officers and Directors, and all other Unit Owners and Occupants.

15.8 **Sufficient Insurance:** In the event the improvements forming a part of the Common Areas or any portion thereof shall suffer damage or destruction from any cause or peril insured against and the proceeds of any policy or policies insuring against such loss or damage and payable by reason thereof shall be sufficient to pay the cost of repair or restoration or reconstruction, then such repair, restoration, or reconstruction shall be undertaken by the Association, and the insurance proceeds shall be used in payment therefor.

15.9 **Insufficient Insurance:** In the event the improvements forming a part of the Common Areas or any portion thereof shall suffer damage or destruction from any cause or peril which is not insured against, or, if insured against, the insurance proceeds shall not be sufficient to pay the cost of repair, restoration or reconstruction, then, unless the Unit Owners shall elect not to terminate the Project within the time period and as provided in Article XIV above, the Association shall make repairs, restoration, or reconstruction of the Common Areas so damaged or destroyed at the expense (to the extent not covered by insurance) of all Unit Owners as provided in Article XIV above.

15.10 **Worker's Compensation and Employer's Liability Insurance:** The Management Committee shall acquire workmen's compensation and employer's liability insurance and all other similar insurance in respect to employees of the Association in the amounts and in the forms now or hereafter required by law.

15.11 **Directors and Officers Liability:** The Association shall obtain and continue in effect insurance for the protection of the Directors and Officers of the Association from personal liability in the management of the Association's affairs.

## ARTICLE XVI

### UTILITY SERVICES

Each Unit Owner by acceptance of a deed to a Unit agrees to pay for utility services separately metered or separately charged by the utility company to that Unit, and to reimburse the Association for that Unit's share of any utility cost that the Board reasonably determines is attributable to use of that Unit. All other utility costs shall be Common Expenses and paid by the Association.

**ARTICLE XVII****EMINENT DOMAIN**

17.1 **Standing:** Except as hereinafter provided, the Association, or its designated representative, or authorized successor, as trustee, shall represent the Unit Owners in any Condemnation or eminent domain proceedings or in negotiations, settlements, and agreements with the condemning authority for acquisition of all or any part of the Property, and shall have the sole and exclusive right to settle losses with the condemning authority and to receive the award or proceeds of settlement for the use and benefit of the Unit Owners as their interests may appear. Notwithstanding the foregoing, in the event that a Unit Owner may lawfully separately pursue and realize upon a claim for incidental and consequential losses or damage to that Unit Owner resulting from a taking under the power of eminent domain, such as for relocation and moving expenses, loss of favorable mortgage terms, and other such individual incidental or consequential losses, that Unit Owner may, at his, her, or its election, separately pursue such claim, provided that the pursuing of the same, or the realization of an award thereof, (i) does not jeopardize, in any way, an action by the Association to recoup the losses incurred by it or by any other Unit Owner or the direct loss with respect to the Unit itself, (ii) does not jeopardize, in any way, an action by the Association with regard to the usability of a Unit, and (iii) does not diminish any award for any such loss.

17.2 **Use of Proceeds:** The award or proceeds of settlement in any actual or threatened condemnation or eminent domain proceedings, less the costs, if any, incurred in obtaining the same, shall be applied first to the cost of restoring or replacing all damaged or taken improvements on the remaining Property in accordance with the Plat, or in accordance with any new plans and specifications therefor approved by Unit Owners exercising no less than seventy-five percent (75%) of the voting power of Unit Owners.

17.3 **Insufficient Proceeds:** If the award or proceeds are insufficient for the purpose described in paragraph 17.2 above, the excess cost shall be paid by the Association and, to the extent funds of the Association are insufficient therefor in the judgment of the Board, such excess cost shall be a Common Expense and assessed among the Units in the same manner as special assessments for capital improvements are assessed. Except as hereinafter provided, the balance of any such award or proceeds of settlement, if there is an excess, shall be allocated and disbursed to the Unit Owners, as their interests may appear, in proportion to the relative undivided interests of the Units in the Common Areas.

17.4 **Non-Restorable Unit:** Notwithstanding the foregoing, in the event that, as a result of any such taking, any Unit could not reasonably be restored to a condition comparable to that which existed prior to the taking, or could not be replaced, prior to the allocation and disbursement of any sum to any other Unit Owner, there shall be allocated and disbursed from such award or proceeds, to each Unit Owner whose Unit cannot be so restored or replaced as their interests may appear, such amount as is equal to the then fair market value of the Unit that cannot be so restored or replaced. Thereupon, such Unit or Units, and the Owners thereof, shall be immediately and automatically divested of any interest in the Project, the Property, and the Association, including, without limiting the generality of the foregoing, divestment of an undivided interest in the Common Areas, vote, membership in the Association, and liability for

Common Expenses. All such undivided interests in the Common Areas shall be reallocated equally among all remaining Units as set forth in this Declaration, and the voting rights attributable to the remaining Units shall remain unchanged.

17.5 Power of Attorney: Each Unit Owner, by acceptance of a deed to a Unit, appoints the Association, or its designated representative, as his, her, or its attorney-in-fact to represent that Unit Owner, settle losses, receive and utilize the award or proceeds of settlement, and to authorize the Association to do all things necessary or desirable to exercise the rights and fulfill the responsibilities of the Association set forth in this Article with respect to condemnation or eminent domain proceedings. This power is for the benefit of each and every Unit Owner, the Association, and the real estate to which it is applicable, runs with land, is coupled with an interest, and is irrevocable.

## ARTICLE XVIII

### MAINTENANCE

18.1 Owner's Responsibility: For purposes of maintenance, repair, alteration, and remodeling, an Owner shall maintain and be permitted to alter or remodel the interior non-supporting walls, the materials (such as, but not limited to, plaster, gypsum drywall, paneling, wallpaper, paint, wall and floor tile and flooring) making up the finished surfaces of the perimeter walls, ceilings, and floors within the Unit, including any non-exterior Unit doors and non-exterior windows. The Unit Owner shall also maintain the surface of the interior supporting walls, and the Association shall maintain the structural integrity of interior supporting walls. The Owner shall not alter lines, pipes, wires, conduits, or systems (which for brevity are herein and hereafter referred to as utilities) which serve one or more other Units. Such utilities shall not be disturbed or relocated by an Owner without the written consent and approval of the Management Committee. Such right to repair, alter, and remodel is coupled with the obligation to replace any materials removed with similar types or kinds of materials. An Owner shall maintain and keep in repair the interior of his Unit, including the fixtures thereof. All fixtures and equipment installed within the Unit commencing at a point where the utilities enter the Unit shall be maintained and kept in repair by the Owner thereof. An Owner shall do no act and shall perform no work that will or may impair the structural soundness or integrity of the Building in which it is located, impair any easement or hereditament, or violate any laws, ordinances, regulations and codes of the United States of America, the State of Utah, the County of Utah, or any other agency or entity which may then have jurisdiction over said Unit. Any expense to the Association for investigation under this Article shall be borne by Owner if such investigation establishes a violation of this paragraph. Each Owner shall also keep the Limited Common Areas appurtenant to his Unit in a clean and sanitary condition, free and clear of snow, ice, dirt, debris, and any accumulation of water. However, general repair and maintenance of the Limited Common Areas shall be the responsibility of the Association as with all other Common Areas. Each Owner shall be obligated to reimburse the Association promptly upon notice by the Association to the Unit Owner of any expenditures incurred by the Association in repairing or replacing any Common Areas damaged by any act or failure to act of the Unit Owner, his tenants, guests, invitees or agents, except those expenditures covered by insurance where subrogation rights of the insurer against the Owner have been waived.

18.2 Association's Responsibility: The Association shall have the duty of maintaining and repairing all of the Common Areas and Limited Common Areas within the Project including the structural integrity of interior structural walls of Units, and the cost of said maintenance and repair shall be a Common Expense of all of the Owners. The Management Committee shall not need the prior approval of the Members of the Association to cause such maintenance or repairs to be accomplished, notwithstanding the cost thereof; subject, however, to Article XIV hereof.

The Association shall, through the Management Committee or its representatives, provide to the Owners the following services which shall be paid for out of the Common Expense Assessment, to-wit:

18.2.1 maintain the Common Areas and Limited Common Areas, including without limitation the parking areas, the landscaping, and sidewalks;

18.2.2 administer and manage the Project;

18.2.3 provide common utilities;

18.2.4 set aside reserves for future maintenance, repairs, and replacements of Common Areas and Limited Common Areas;

18.2.5 provide snow removal and, if not provided by Springville City, trash removal;

18.2.6 provide fire, life, and safety monitoring with respect to the Project;

18.2.7 obtain the insurance required in Article XV above;

18.2.8 acting as attorney-in-fact in the event of damage or destruction as provided for in paragraph 17.5 above, and

18.2.9 performing all other acts required by this Declaration, or the Articles of Incorporation, and the Bylaws of the Association.

The Association reserves the right to hire one or more persons or entities including a Manager, contractors, and employees to perform such services, provided, however, that any such hiring shall be subject to the provisions set forth herein.

## **ARTICLE XIX**

### **ADMINISTRATIVE**

The Management Committee shall have the power to adopt and establish by resolution such Project management and operational rules as it may deem necessary and proper for the maintenance, operation, management, and control of the Project. The Management Committee may, from time to time, alter, amend, and repeal such rules. Unit Owners shall at all times obey such rules and see that they are faithfully observed by their respective tenants, subtenants, and any other Occupant or user of their Unit.

**ARTICLE XX****OBLIGATION TO COMPLY**

Each Unit Owner, tenant, subtenant and other Occupant or user of a Unit shall comply strictly with the provisions of the Act, this Declaration, the Bylaws of the Association from time to time in effect, the rules and regulations promulgated by the Management Committee, and all agreements and determinations lawfully made and/or entered into by the Association. Any failure to comply with the foregoing shall be grounds for an action to recover sums due for damages or injunctive relief or both, maintainable by the Association in its own name and/or on behalf of the Unit Owners, or in a proper case, by an aggrieved Unit Owner.

**ARTICLE XXI****INDEMNIFICATION OF DIRECTORS AND OFFICERS**

Each member of the Board and all officers and agents of the Association shall be indemnified and held harmless by the Association against all costs, expenses, and liabilities, whatsoever, including, without limitation, attorney's fees reasonably incurred by him in connection with any proceeding in which he may become involved by reason of his being or having been such Director or officer, all to the maximum extent permitted by law; provided, however, the foregoing indemnification shall not apply if the loss, expense, or liability involved resulted from the willful misconduct of such individual.

**ARTICLE XXII****AMENDMENT**

22.1 Power to Amend: Except as otherwise specifically provided herein, additions to, changes in, or amendment of this Declaration (or the other Condominium Documents) shall require the consent of Unit Owners exercising not less than sixty-seven percent (67%) of the voting power of Unit Owners. Notwithstanding the foregoing:

22.1.1 The consent of all Unit Owners shall be required for any amendment effecting:

22.1.1.1 a change in the boundaries of any Unit;

22.1.1.2 a change in the number of votes in the Association appertaining to any Unit;

22.1.1.3 a change in the fundamental purposes to which any Unit or the Common Areas are restricted; or

22.1.1.4 termination of the Project except as provided in Article XIV above and except for the sale of the Real Property as provided in § 57-8-32 of the Act.

22.1.2 In any event, Declarant alone may amend or terminate this Declaration prior to the closing of a sale of the first Unit. Notwithstanding anything contained in this Declaration to the contrary, Declarant reserves the unilateral right and power, and each Unit Owner by acceptance of a deed to a Unit is deemed to and does give and grant to Declarant a power-of-attorney, which right and power is coupled with an interest and runs with the title to a Unit and is irrevocable (except by Declarant), for a period of six (6) years from the date of the filing of the Declaration, to unilaterally amend the Condominium Documents if such amendment is (i) necessary to correct typographical errors or inadvertent omissions; (ii) necessary to bring any provision hereof into compliance with any applicable governmental statute, rule, or regulation or judicial determination which shall be in conflict therewith; (iii) reasonably necessary to enable any reputable title insurance company to issue title insurance coverage with respect to the Units or other improvements subject to this Declaration; provided, however, any such amendment shall not materially adversely affect the title to any Unit unless any such Owner shall consent thereto in writing. Further, prior to the expiration of the Declarant Control Period described in Section 27.1 below, Declarant may unilaterally amend this Declaration for any other purpose so long as any such amendment does not materially adversely affect title to any property without the consent of the affected Owner as Declarant shall determine in its sole and reasonable judgment.

22.1.3 Anything in this Article or Declaration to the contrary notwithstanding, Declarant reserves the unilateral right to amend all or any part of this Declaration to such extent and with such language as may be requested by any municipal authority, a State Department of Real Estate (or similar agency), FHA, VA, the FHLMC or FNMA and to further amend to the extent requested by any other federal, state or local governmental agency which requests such an amendment as a condition precedent to such agency's approval of this Declaration, or by any federally chartered lending institution as a condition precedent to lending funds upon the security of any Unit(s) or any portions thereof. Any such amendment shall be effected by the recordation by Declarant of an amendment duly signed by or on behalf of the members, authorized agents, or authorized officers of Declarant, as applicable, with their signatures acknowledged, specifying the Federal, State or local governmental agency or the federally chartered lending institution requesting the amendment and setting forth the amendatory language requested by such agency or institution. Recordation of such an amendment shall be deemed conclusive proof of the agency's or institution's request for such an amendment, and such amendment, when recorded, shall be binding upon all of the Project and all persons having an interest therein.

22.1.4 Notwithstanding anything contained in this Declaration to the contrary, because the Plat has been recorded prior to the construction of the Units, Declarant reserves the right to unilaterally amend the Plat at any time and from time to time by Declarant if such amendment is necessary to make technical corrections, to satisfy the requirements of any governmental authority, to correct mistakes, remove/clarify ambiguities or to accurately reflect the "as-built" Units on the Plat.

22.2 Method to Amend: An amendment to this Declaration (or the Plat or the Bylaws), adopted with the consent of Unit Owners hereinbefore required, shall be executed with the same

formalities as to execution as this Declaration by any officer of the Association and shall contain his or her certification that such amendment was duly adopted in accordance with the foregoing provisions. Any amendment adopted by the Declarant or a duly empowered successor Declarant pursuant to authority granted it pursuant to the Declaration shall be duly executed by it with the same formalities as to execution as this Declaration and shall contain the certification of such signor or signors that such amendment is made pursuant to authority vested in Declarant or any duly empowered successor Declarant by the Declaration. Any amendment duly adopted and executed in accordance with the foregoing provisions shall be effective upon the filing of the same in the office of the County Recorder of Utah County, Utah.

## ARTICLE XXIII

### TERMINATION OF THE PROJECT

23.1 Method of Termination: Except as otherwise provided herein, the Project may be terminated only by agreement of Owners entitled to vote all of the votes of all Units as more particularly described as follows:

23.1.1 As provided in § 57-8-32 of the Act, 75% of the Owners may remove the Project from the provisions of the Act by an instrument duly recorded to that effect, provided that at least 67% of Eligible Mortgagees holding liens affecting any of the Units consent or agree by instruments duly recorded that their liens are transferred to the fractional ownership interest of the Owners in the Project. Provided further, as long as Declarant has ownership rights in the Project, its consent shall also be required to remove the Project from the provisions of the Act.

23.1.2 A termination agreement may provide that all the Project shall be sold following termination. If, pursuant to the agreement, any real estate in the Project is to be sold following termination, the termination agreement shall set forth the minimum terms of the sale.

23.1.3 The Association, on behalf of the Owners, may contract for the sale of real estate in the Project, but the contract is not binding on the Owners until approved pursuant to this Section 23.1.3. If any real estate in the Project is to be sold following termination, title to that real estate on termination vests in the Association as trustee for all Owners. Thereafter, the Association has all powers necessary and appropriate to effect the sale. Until the sale has been concluded and the proceeds of the sale distributed, the Association continues in existence with all powers it had before termination. Proceeds of the sale shall be distributed to Owners and Mortgagees as their interests may appear, based on the Owners respective undivided interest in the Common Areas. Unless otherwise specified in the termination agreement, as long as the Association holds title to the real estate, each Owner and their successors in interest have an exclusive right to occupancy of the portion of the real estate that formerly constituted their Unit in accordance with the terms of this Declaration. During the period of that occupancy right, each Owner and their successors in interest remain liable for all assessments and other obligations imposed on Owners by this Declaration.



23.2 Disposition after Termination: Following termination of the Project, the proceeds of any sale of real estate, together with the assets of the Association, shall be held by the Association as trustee for Owners and Mortgagees as their interests may appear. Following termination, Mortgagees holding Mortgages on the Units which were recorded before termination may enforce those liens in the same manner as any lienholder.

#### **ARTICLE XXIV**

##### **PERSON TO RECEIVE SERVICE OF PROCESS**

The initial person to receive service of process in the cases provided herein or in the Act is Larry Lindstrom, whose address is 1923 North 300 East, Lehi, Utah 84043. Said person may be changed by the filing by the Association with the State of Utah of an appropriate instrument.

#### **ARTICLE XXV**

##### **MARKETING BY DECLARANT**

Until such time as the Declarant ceases to be a Unit Owner or the expiration of six (6) years after the date on which this Declaration is filed for record in the office of the County Recorder of Utah County, Utah, whichever first occurs, Declarant, or its successors or assigns shall have the right, in furtherance of any sales or promotional activities, to take any reasonable action on the Project that Declarant deems appropriate to accomplish or facilitate the sale of Units owned by Declarant, so long as such actions are not prohibited by the Act. This shall include, but not be limited to, use of the community clubhouse, office and pool areas.

#### **ARTICLE XXVI**

##### **LIMITATION ON IMPROVEMENT BY ASSOCIATION**

Until the termination of Declarant's rights described in Article XXVII below, the Association shall not, without the written consent of Declarant, make any improvement to or alteration in any of the Common Areas, other than such repairs, replacements, or similar matters as may be necessary to properly maintain the Common Areas as the same existed at the time this Declaration was recorded.

#### **ARTICLE XXVII**

##### **DECLARANT CONTROL PERIOD**

27.1 Declarant Control Period: Notwithstanding anything above to the contrary, the Declarant, or a managing agent or some other person or persons selected by Declarant, may appoint and remove some or all of the members of the Management Committee or some or all of the officers of the Association, or may exercise all of the powers and responsibilities otherwise assigned by the Declaration and by the Act to the Association, its officers, or the Management Committee. The rights of the Declarant contained in this Section 27.1 shall terminate upon the first of the following to occur:

27.1.1 The expiration of six (6) years from the date of this Declaration is recorded in the office of the recorder for Utah County, Utah;

27.1.2 After Units to which three-fourths of the undivided interests in the Common Areas appertain have been conveyed by Declarant, or after all Additional Land has been added to the Project, whichever last occurs; or

27.1.3 The date on which Declarant voluntarily relinquishes its Membership, as evidenced by a notice recorded in the office of the County Recorder of Utah County, Utah.

27.2 Unanimous Consent Required to Amend this Article: As required by § 57-8-16.5(1) of the Act, no amendment to this Declaration not consented to by all Unit Owners shall increase the scope of the rights of Declarant contained in this Article XXVII.

## ARTICLE XXVIII

### MORTGAGEE PROTECTIONS

28.1 Notice of Action: The Board shall maintain a roster of Unit Owners, which roster shall include the mailing addresses of all Owners. The Board shall also maintain a roster containing the name and address of each Eligible Mortgagee of a Unit as such term is defined herein and in Section 2.2.16 above. To be considered an Eligible Mortgagee, a First Mortgagee shall provide the Board with a copy of its recorded First Mortgage and the name and address of the First Mortgagee and a statement that the Mortgage is a First Mortgage together with a written request that it receive notice of the matters and actions described below. The Board shall strike the Eligible Mortgagee from the roster upon such Eligible Mortgagee's request or upon the Board's receipt of a copy of a recorded full release or satisfaction of the Eligible Mortgage. The Board shall give notice of such removal to the Eligible Mortgagee unless the Eligible Mortgagee requested the removal. Upon the Association's receipt of such written request, an Eligible Mortgagee shall be entitled to timely written notice of:

28.1.1 Any condemnation loss or any casualty loss that affects either a material portion of the Project or any Unit on which there is a Mortgage held, insured or guaranteed by such Eligible Mortgagee;

28.1.2 Any delinquency in the payment of assessments or charges owed by an Owner whose Unit is subject to a Mortgage held, insured or guaranteed by such Eligible Mortgagee, which default remains uncured for a period of sixty (60) days;

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

28.1.4 Any proposed action which would require the consent of a specified percentage of Eligible Mortgagees as described in Section 23.1 above and Section 28.2 below.

**28.2 Matters Requiring Prior Eligible Mortgagee Approval:** Except as provided elsewhere in this Declaration, the prior written consent of Owners entitled to vote at least sixty-seven percent (67%) of the voting rights of the Association (unless pursuant to a specific provision of this Declaration the consent of Owners entitled to vote a lesser or greater percentage of the total voting rights of the Association is required, in which case such specific provisions shall control), and Eligible Mortgagees holding Mortgages on Units having at least fifty-one percent (51%) of the votes of the Units subject to Mortgages held by Eligible Mortgagees shall be required to:

28.2.1 Abandon or terminate the legal status of the Project after substantial destruction or condemnation occurs. Termination of the legal status of the Project for any other reason shall require the affirmative vote or authorization of Eligible Mortgagees holding at least sixty-seven percent (67%) of the Mortgages on Units.

28.2.2 Amend any material provision of the Condominium Documents. "Material Provisions" shall mean any provision substantially altering the following (an amendment to such Documents shall not be considered material if it is for the purpose of correcting technical errors or for clarification only):

28.2.2.1 Voting rights as described in Section 9.3 above (except reallocation of votes in the event Declarant exercises its Option to Expand the Project as described in Section 6.2 above);

28.2.3 Increases in assessments that raise the previous assessment amount by more than 25%, assessment liens, or the priority of assessment liens;

28.2.4 Reductions in reserve requirements for maintenance, repair, and replacement of Common Areas;

28.2.5 Responsibility for maintenance and repairs of Units encumbered by a Mortgage held by an Eligible Mortgagee (except as otherwise permitted by this Declaration);

28.2.6 Reallocation of interests in the Common Areas, or rights to their use (except reallocation of interests in the Common Areas in the event Declarant exercises its Option to Expand the Project as described in Section 6.2 above);

28.2.7 Redefinition of any Unit boundaries encumbered by a Mortgage held by an Eligible Mortgagee (except as otherwise permitted by this Declaration);

28.2.8 Convertibility of Units into Common Areas or vice versa (except as otherwise permitted in this Declaration);

28.2.9 Expansion or contraction of the Project, or the addition, annexation, or withdrawal of property to or from the Project (except in the event Declarant exercises its Option to Expand the Project as expressly authorized by Section 6.2 above);

28.2.10 Reductions in the hazard or fidelity insurance coverage described in Article XV above;

28.2.11 Imposition of any restrictions on the leasing of Units (except as otherwise provided in Section 7.2.11 above);

28.2.12 Imposition of any restrictions on a Unit Owner's right to sell or transfer his or her Unit (except as otherwise permitted by this Declaration);

28.2.13 A decision by the Association to establish self-management if professional management had been required previously by this Declaration; or

28.2.14 Restoration or repair of the Project (after damage or partial condemnation) in a manner other than that specified in this Declaration; or

28.2.15 Any provisions in this Declaration that expressly benefit Mortgage holders, insurers or guarantors.

28.3 Notification Process: Any Eligible Mortgagee, insurer or governmental guarantor who receives a written request from the Association to approve additions or amendments to the Condominium Documents and who fails to deliver or post to the Association a negative response within thirty (30) days shall be deemed to have approved such request, provided the written request was delivered by certified or registered mail, with a "return receipt" requested.

28.4 Availability of the Condominium Documents and Financial Statements: The Association shall maintain and have current copies of the Condominium Documents and other rules concerning the Project as well as its own books, records, and financial statements available for inspection by Owners or by holders, insurers, and guarantors of Mortgages held by Eligible Mortgagees that are secured by Units. Generally, the Condominium Documents shall be available during normal business hours. The Board reserves the right to charge a reasonable fee for the copying of such books and records in the event an Owner or Eligible Mortgagee shall request the same.

28.5 Subordination of Lien: The lien or claim against a Unit for unpaid assessments or charges levied by the Association pursuant to this Declaration shall be subordinate to the First Mortgage affecting such Unit, and the First Mortgagee thereunder which comes into possession of or which obtains title to the Unit shall take the same free of such lien or claim for unpaid Assessment or charges, but only to the extent of Assessments or charges which accrue prior to foreclosure of the First Mortgage, exercise of a power of sale available thereunder, or taking of a deed or assignment in lieu of foreclosure. No assessment, charge, lien, or claim which is described in the preceding sentence as being subordinate to a First Mortgage or as not to burden a First Mortgagee which comes into possession or which obtains title shall be collected or enforced by the Association from or against a First Mortgagee, a successor in title to a First Mortgagee, or the Unit affected or previously affected by the First Mortgage concerned.

28.6 Priority: No provision of this Declaration or this Articles gives or may give an Owner or any other party priority over any rights of Mortgagees pursuant to their respective

Mortgages in the case of a distribution to Owners of insurance proceeds or condemnation awards for loss to or taking of all or any part of the Units or the Common Areas.

## ARTICLE XXIX

### MISCELLANEOUS

29.1 Severability: The invalidity of any one or more phrases, sentences, subparagraphs, paragraphs, sections, or articles hereof shall not affect the remaining portions of this instrument or any part thereof, and, in the event that any portion or portions of this instrument should be invalid or should operate to render this instrument invalid, this instrument shall be construed as if such invalid phrase or phrases, sentence, or sentences, subparagraph or subparagraphs, paragraph or paragraphs, section or sections, or article or articles had not been inserted.

29.2 Declarant's Rights Assignable: All of the rights of Declarant under this Declaration may be assigned or transferred either by operation of law or through a recorded voluntary conveyance, transfer, or assignment. Any Mortgage covering Units in which title is vested in the Declarant, shall, at any given point in time and whether or not such Mortgage does so by its provisions, automatically cover, encumber, and include all of the then-unexercised or then unused rights, powers, authority, privileges, protections, and controls which are accorded to Declarant thereunder.

29.3 Waivers: No provision contained in this Declaration shall be deemed to have been waived by reason of any failure to enforce it, irrespective of the number of violations which may occur.

29.4 Topical Headings: The topical headings contained in this Declaration are for convenience only and do not define, limit, or construe the contents of the Declaration.

29.5 Effective Date: This Declaration shall take effect upon recordation.

29.6 Association Bylaws: A copy of the Association's initial Bylaws are attached hereto as Exhibit B. In the event of any conflict between the provisions of those Bylaws and this Declaration, the provisions of this Declaration shall control.

29.7 Covenants Running With The Land: The covenants, conditions, restrictions, easements, reservations, liens, and charges created hereunder or hereby shall run with and bind the land, and each part thereof, and shall be binding upon and inure to the benefit of all parties having any right, title, or interest in or to all or any part of the Property, including the Association, and their respective heirs, executors, administrators, successors, and assigns.

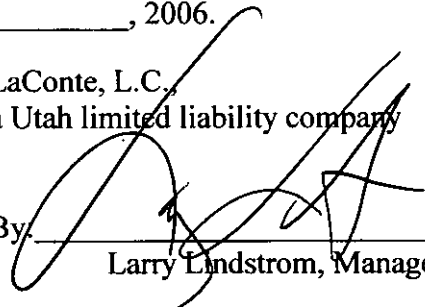
29.8 Actions: In addition to any other remedies provided in this Declaration, Declarant, (with respect to those rights directly benefiting the Declarant), the Association, and each Unit Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, easements, reservations, liens, and charges set forth in this Declaration or in the Bylaws or now or hereafter imposed by or through the Association's rules and regulations. Failure of Declarant, the Association, or any Unit Owner to proceed with such

enforcement shall in no event be deemed a waiver of the right to enforce at a later date the original violation or a subsequent violation, nor shall the doctrine of laches or any statute of limitations bar the enforcement of any such restriction, condition, covenant, reservation, easement, lien, or charge. Further, the Association and each Unit Owner shall have rights of action against each other for failure to comply with the provisions of the Condominium Documents, rules and regulations, and/or applicable law, and with respect to decisions made pursuant to authority granted thereunder. The Association shall have the right to assess reasonable charges against a Unit Owner who fails to comply with the same, including the right to assess charges for the costs of enforcement and arbitration. Neither the Association nor its Directors, officers, or other representatives shall be liable to any Unit Owner or Occupant, or to their invitees, for damage to any Unit or any part thereof, or to any personal property of such Unit Owner, Occupant or invitee, or for injury to such person, unless the damage or injury was proximately caused by the gross negligence or the intentional tortious act of the Association or such Director, officer or other representative. Notwithstanding the foregoing, in the event of any dispute between the Association and any Unit Owner or Occupant that cannot be settled by agreement between them, no Unit Owner or Unit Owners shall institute legal proceedings against the Association without first submitting the dispute to Mediation to a single independent mediator selected by the Board. In addition to all other remedies available by law, the Association may use summary abatement or similar means to enforce any provisions hereof or restrictions against the Unit or its use, provided that judicial proceedings shall be instituted before any items of construction may be altered or demolished by summary means.

29.9 Gender and Grammar: The singular wherever used herein shall be construed to mean the plural and the masculine shall include the feminine when applicable. The necessary grammatical changes required to make the provisions hereof apply either to corporations, partnerships, men or women, shall in all cases be assumed as though in such case fully expressed.

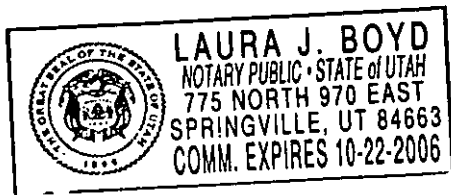
IN WITNESS WHEREOF, the undersigned has caused this Declaration to be executed on its behalf this 1st day of MAY, 2006.

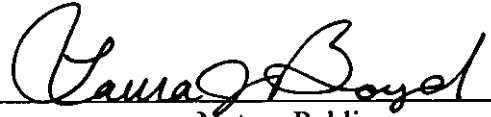
LaConte, L.C.,  
a Utah limited liability company

By:   
Larry Lindstrom, Manager

STATE OF UTAH    )  
                          : ss.  
County of Salt Lake )

The foregoing instrument was acknowledged before me this 1 day of May, 2006, by Larry Lindstrom, the sole Manager of LaConte, L.C., a Utah limited liability company.



  
Notary Public

Phase 1 Legal Description

**SPRINGBROOK VILLAS PLAT "A"**

BEGINNING AT A POINT WHICH IS NORTH 959.61 FEET AND EAST 1,271.07 FEET FROM THE SOUTH QUARTER CORNER OF SECTION 32, TOWNSHIP 7 SOUTH, RANGE 3 EAST, SALT LAKE BASE AND MERIDIAN; THENCE NORTH 76°08'27" WEST 436.63 FEET; THENCE NORTH 89°04'15" WEST 97.71 FEET TO A NON-TANGENT POINT OF CURVATURE; THENCE NORTHEASTERLY 80.19 FEET ALONG THE ARC OF A 500.00 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 9°11'20", THE CHORD OF WHICH BEARS NORTH 35°32'26" EAST 80.10 FEET TO A POINT OF REVERSE CURVATURE; THENCE NORTHEASTERLY 193.14 FEET ALONG THE ARC OF A 500.00 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 22°07'54", THE CHORD OF WHICH BEARS NORTH 29°04'09" EAST 191.94 FEET; THENCE NORTH 18°00'14" EAST 181.08 FEET; THENCE SOUTH 71°59'17" EAST 33.00 FEET; THENCE SOUTH 89°26'13" EAST 1,216.92 FEET; THENCE SOUTH 00°17'39" WEST 160.73 FEET TO A NON-TANGENT POINT OF CURVATURE; THENCE SOUTHERLY 118.17 FEET ALONG THE ARC OF A 55.00 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 123°06'28", THE CHORD OF WHICH BEARS SOUTH 22°46'55" EAST 96.72 FEET TO POINT OF REVERSE CURVATURE; THENCE SOUTHERLY 10.00 FEET ALONG THE ARC OF A 15.00 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 38°12'55", THE CHORD OF WHICH BEARS SOUTH 19°39'51" WEST 9.82 FEET; THENCE SOUTH 00°33'24" WEST 111.06 FEET; THENCE NORTH 89°26'36" WEST 59.00 FEET; THENCE SOUTH 88°50'00" WEST 666.92 FEET; THENCE NORTH 89°26'36" WEST 202.26 FEET; THENCE SOUTH 13°51'33" WEST 111.15 FEET TO THE POINT OF BEGINNING.

PARCEL CONTAINING 12.51 ACRES MORE OR LESS.

BASIS OF BEARINGS: NORTH 88°33'19" EAST FROM THE SOUTH QUARTER CORNER OF SECTION 32 TO THE SOUTHEAST CORNER OF SAID SECTION.



**EXHIBIT B**  
**Association Bylaws**

**BYLAWS**  
**SPRINGBROOK VILLAS CONDOMINIUMS**  
**OWNERS ASSOCIATION, INC.**

## BYLAWS

### SPRINGBROOK VILLAS CONDOMINIUMS OWNERS ASSOCIATION, INC.

The administration of Springbrook Villas Condominiums Owners Association, Inc. ("Association") shall be governed by the Declaration of Covenants, Conditions, Restrictions, and Reservation of Easements for Springbrook Villas Condominiums, a Senior Living Condominium Project (Expandable) (Phase I) recorded in the Office of the Recorder for Utah County, Utah ("Declaration"), the Articles of Incorporation for Springbrook Villas Condominiums Owners Association, Inc. ("Articles"), these Bylaws, the Utah Condominium Ownership Act (Title 57, Chapter 8, Utah Code Ann.) (the "Act") and the Utah Revised Nonprofit Corporation Act (Title 16, Chapter 6a, Utah Code Ann.) (the "Nonprofit Act"). Terms which are capitalized in these Bylaws and which are not otherwise defined herein shall have the meanings set forth in Article II of the Declaration, unless the context clearly indicates otherwise.

1. Application of Bylaws. All present and future Owners, Mortgagees, and Occupants of Units and their employees and guests, and any other persons who may use the Common Areas of the Project in any manner are subject to the Declaration, these Bylaws and all rules and regulations made pursuant hereto and any amendments hereof. The acceptance of a deed or conveyance of a Unit, or the occupancy of any Unit, shall constitute an acceptance and ratification of and an agreement to comply with the provisions of the Declaration and these Bylaws and any rules and regulations made pursuant hereto, as they may be amended from time to time.

2. Management Committee.

2.1. Administration of Association. The management and maintenance of the Project and the administration of the affairs of the Association shall be conducted by the Management Committee consisting of not less than three (3) nor more than seven (7) persons who, except for members appointed by Declarant, shall be Owners. The number of members shall be three (3). Upon expiration of the Declarant Control Period, Owners holding a majority of the total votes present in person or by proxy at any meeting of the Association where a quorum is present may determine by vote or written assent to increase the members of the Management Committee.

2.2. Declarant's Management Rights. The Declaration establishes a Declarant Control Period, during which time the Declarant or persons designated by it have authority to appoint and remove the members of the Management Committee and officers of the Association. In accordance with the Declaration, the Declarant Control Period shall terminate upon the first of the following to occur:

2.2.1. The expiration of six (6) years from the date the Declaration is recorded in the Office of the County Recorder of Utah County, Utah;

2.2.2. After Units to which three-fourths of the undivided interests in the Common Areas appertain have been conveyed by Declarant, or after all Additional Land has been added to the Project, whichever last occurs; or

2.2.3. The date on which Declarant voluntarily relinquishes its Membership, as evidenced by a notice recorded in the Office of the County Recorder of Utah County, Utah.

2.3. Initial Management Committee Members. The initial members of the Management Committee appointed by Declarant shall be the following persons, who shall also act as the officers of the Association unless and until Declarant decides otherwise:

Larry B. Lindstrom 1923 North 300 East Lehi, Utah 84043	President-Treasurer
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Raymond B. Jenkins 9471 South McVea Ct. South Jordan, Utah 84095	Vice President
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Dave Erickson 1486 West Misty Breeze Cir Kaysville, Utah 84037	Secretary
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2.4. Filling of Vacancies after the Initial Management Committee. The terms of the Management Committee elected upon expiration of the Declarant Control Period shall be staggered so that the terms of one-third (1/3) of the members of the Management Committee will expire and successors will be elected at each annual meeting of the Association. Accordingly, the members of the Management Committee elected at the first annual meeting following the termination of the Declarant Control Period shall serve for initial terms as follows: one (1) member shall serve for an initial term of one (1) year, one (1) member shall serve for an initial term of two (2) years, and one (1) member shall serve for an initial term of three (3) years. Thereafter, at every annual meeting, the Association shall elect the members of the Management Committee to fill those positions becoming vacant at such meeting, pursuant to the terms of this Section 2.

2.5. Nominating Committee; Nominations. The Management Committee may elect from the Owners a nominating committee of not less than three (3) members at least ninety (90) days prior to the annual meeting of the Association. If elected by the Management Committee, the nominating committee shall recommend to the Association at least one nominee for each position on the Management Committee to be filled at that particular annual meeting at least sixty (60) days prior to the annual meeting. The Management Committee may, but shall not be obligated to, inquire of the Owners to identify those having an interest in serving on the Management Committee. Nominations for positions on the Management Committee may also be made by petition filed with the President of the Association and the nominating committee at least sixty (60) days prior to the annual meeting of the Association, which petition shall be signed by the nominee named therein indicating his or her willingness to serve as a member of the Management Committee, if elected.

2.6. Voting for the Management Committee. Voting for the Management Committee shall be by secret written ballot. At any meeting of the Association, each Owner, either in person or by proxy, shall be entitled to the number of votes set forth in the Declaration for each Unit owned multiplied by the number of Management Committee seats to be filled. Each Owner may cumulate his or her votes with respect to the Units for which he or she is voting and cast all of them in favor of a single candidate, or distribute his or her votes among as many candidates as the Owner sees fit.

2.7. Term. Members of the Management Committee shall serve for terms of three (3) years beginning immediately upon their election by the Association; provided, however, that the initial Management Committee shall serve those terms as outlined in Section 2.4 above. Notwithstanding the foregoing, once the Declarant Control Period has expired, the vote of Owners holding a majority of the total votes of the Association present in person or by proxy at a meeting of the Association where a quorum is present may, from time to time, change the number and terms of the members of the Management Committee, provided that in any such event the terms of not less than one-third of the Management Committee shall expire annually. The members of the Management Committee shall serve until their respective successors are elected, or until death, resignation, or removal.

2.8. Resignation. Any member of the Management Committee may resign at any time by giving written notice to the President of the Association or to the remaining Management Committee members. Excepting those members named in the Articles or selected by Declarant, any member of the Management Committee who (a) fails to attend three (3) consecutive Management Committee meetings (whether special or regular) or fails to attend at least twenty-five percent (25%) of the Management Committee meetings held during any fiscal year, or (b) fails to meet his or her assessment obligations under the Declaration shall be deemed to have tendered his or her resignation, and his or her position shall be vacant following confirmation of the failure to attend meetings or meet assessment obligations by the affirmative vote of the remaining members of the Management Committee, notwithstanding such remaining members may be less than a quorum.

2.9. Removal. The Owners, representing at least two-thirds (2/3) of the total votes of the Association present in person or by proxy at any meeting of the Owners may remove any member of the Management Committee elected by the Owners with or without cause. A member of the Management Committee may only be removed by the Owners at a meeting called for the purpose of removing such member and if the meeting notice states that the purpose or one of the purposes, of the meeting is removal of such member of the Management Committee.

2.10. Vacancies. If vacancies occur in the Management Committee by reason of the death or resignation of a Management Committee member, the Management Committee members then in office shall continue to act, and such vacancies shall be filled by a vote of the Management Committee members then in office, though less than a quorum. Any vacancy in the Management Committee occurring by reason of removal of a Management Committee member by the Association may be filled by election at the meeting at which such Management Committee member is removed or any subsequent

regular or special meeting of the Association. A vacancy resulting from a removal shall only be filled by the vote of Owners holding a majority of the total votes of the Association present in person or by proxy at a meeting of the Association where a quorum is present.

2.11. Compensation. The members of the Management Committee shall receive no compensation for their services unless expressly approved by the vote or written assent of a majority of the total votes of the Association; provided, however, that members of the Management Committee shall be reimbursed by the Association for reasonable expenses actually incurred for attendance at regular and special meetings of the Management Committee and any other expenses incurred on behalf of the Association upon approval of a majority of the other Management Committee members. Any member of the Management Committee may be employed by the Association in another capacity and receive compensation for such employment; provided further, that such employment shall be approved by vote or in writing by all members of the Management Committee not including the member to be employed.

2.12. Powers. The Management Committee, for the benefit of the Project and the Association, shall manage the business, property and affairs of the Project and the Association and enforce the provisions of the Condominium Documents. The Management Committee is authorized to adopt rules and regulations governing the use and operation of the Project, which shall become effective ten (10) days after adoption by the Management Committee. The Management Committee shall have the powers, duties and responsibilities with respect to the Project as contained in the Condominium Documents.

2.13. Management Committee Meetings. The regular meetings of the Management Committee shall be held at least annually at such times and places within the Project, or some other reasonable and suitable location in Utah County, unless a meeting at another location would significantly reduce the cost to the Association and/or the inconvenience to Management Committee members, as the Management Committee shall determine. A majority of the Management Committee shall constitute a quorum, and if a quorum is present, the decision of a majority of those present shall be the act of the Management Committee. Members of the Management Committee may participate in meetings by means of telephonic conference or similar communications equipment by which all persons participating in the meeting can hear each other at the same time and by any other means permitted under Utah law. Such participation shall constitute presence in person at the meeting.

2.14. Special Meetings of the Management Committee. Special meetings of the Management Committee may be called by written notice signed by any two (2) members of the Management Committee. The notice shall specify the time and place of the meeting and the nature of any special business to be considered. Special meetings shall be held within the Project or some other reasonable location in Utah County unless a meeting at another location would significantly reduce the cost to the Association and/or inconvenience to the members of the Management Committee. To the extent permitted by Utah law, special meetings of the Management Committee may be held by telephonic conference or other means as described in Section 2.13 above.

2.15. Notices. Notices of all regular Management Committee meetings shall be given in writing to each member of the Management Committee not less than thirty (30) days prior to the meeting, provided that this requirement shall not apply to any member of the Management Committee who has signed a waiver of notice or a written consent to the holding of a meeting. Special meetings of the Management Committee must be preceded by two days' notice of the date, time and place of the meeting. The notice need not describe the purpose of the special meeting unless required by Utah law. The giving of notice of any meeting shall be governed by the rules set forth in §16-6a-103 of the Nonprofit Act.

2.16. Waiver of Notice. A member of the Management Committee may waive any notice of a meeting before or after the time and date of the meeting stated in the notice. A member's attendance at or participation in a meeting waives any required notice to that member of the meeting unless such member, at the beginning of the meeting or promptly upon the member's arrival at the meeting, objects to holding the meeting or transacting business at the meeting because of lack of notice or defective notice and the objecting member does not vote for or assent to action taken at the meeting.

2.17. Actions and Open Meetings. The Management Committee members shall act only as a Management Committee, and individual Management Committee members shall have no powers as such. Regular and special meetings of the Management Committee shall be open to all members of the Association; provided, however, that the Association members who are not on the Management Committee may not participate in any deliberation or discussion unless expressly so authorized by the vote of a majority of a quorum of the Management Committee. The Management Committee may, with the approval of a majority of a quorum of its members, adjourn the meeting and reconvene in executive session to discuss and vote upon personnel matters, litigation in which the Association is or may become involved, and similar orders of business. The nature of any and all business to be considered in executive session shall first be announced in open session.

2.18. Action Without a Meeting. Any action that is required or permitted to be taken at a meeting of the Management Committee may be taken without a meeting if one or more consents in writing, setting forth the action so taken, are signed by all of the Management Committee members and such signed consents are filed with the records of the Association. The consents of the Management Committee members may be sent by electronically transmitted facsimile or other form of wire or wireless communication providing a complete copy of the document, including a copy of the signature of the Management Committee member.

2.19. Fiscal Year. The fiscal year shall be set by resolution of the Management Committee. In the absence of a Management Committee resolution, the fiscal year shall be the calendar year.

2.20. Liability of Management Committee Members. When a member of the Management Committee is sued for liability for actions undertaken in his or her role as a member of the Management Committee, the Association shall indemnify him or her for

his or her losses or claims, and undertake all costs of defense, until and unless it is proven that he or she acted with willful or wanton misfeasance or with gross negligence. After such proof the Association is no longer liable for the cost of defense, and may recover costs already expended from the member of the Management Committee who so acted. Members of the Management Committee are not personally liable to the victims of crimes occurring at the Project. Punitive damages may not be recovered against the Association, but may be recovered from persons whose activity gave rise to the damages.

2.21. Eligibility for Membership of Management Committee. An officer, employee, agent or director of a corporate Owner of a Unit, a trustee or designated beneficiary of a trust that owns a Unit, a partner of a partnership that owns a Unit, a member of a limited liability company that owns a Unit, and a fiduciary of an estate that owns a Unit may be considered an Owner for the purpose of determining eligibility for membership of the Management Committee. In all events where the person serving or offering to serve as an officer or member of the Management Committee is not the record Owner, they shall file proof of authority in the records of the Association.

2.22. Manager. The Management Committee or the officers appointed thereby may delegate to the a Manager, or such other persons as it so determines, all of the duties and obligations of the Management Committee set forth herein and in the Declaration to the extent such duties and obligations are properly delegable.

2.23. Special Committees. The Management Committee may designate by resolution such committees and subcommittees as the Management Committee deems appropriate, from time to time. Each committee shall exercise those powers granted to it by an enabling resolution of the Management Committee; provided, however that no committee shall exercise any power which is excluded from the delegation of the power of the Management Committee by the laws of the State of Utah, or the Condominium Documents.

### 3. Membership, Voting and Meetings of the Association.

3.1. Annual Association Meetings. The first meeting of the Association shall be held within one (1) year after the closing of the sale of the first Unit sold in the Project. Thereafter, there shall be an annual meeting of the Association at the date and time fixed in accordance with a resolution of the Management Committee at a reasonable place in the Project or some other location that is readily accessible at reasonable cost to the largest possible number of Owners as determined by resolution of the Management Committee. In the event no date is set, the annual meeting shall be held on the first Thursday in October.

3.2. Special Meetings of the Association. Special meetings of the Association may be called by the Declarant, the President, a majority of the Management Committee, or if the Association receives one or more written demands for a meeting that (a) state the purpose for which the special meeting is to be held and (b) are signed and dated by Owners representing at least twenty-five percent (25%) or more of the total votes of the Association. Special meetings of the Association may be held at a reasonable place in the Project or some other location that is readily accessible at reasonable cost to the largest



possible number of Owners as determined by resolution of the Management Committee. At any special meeting of the Association, only those matters of business, the general nature of which was given in the notice of the special meeting, may be voted upon by the Owners.

3.3. Notice of Meetings of the Association. Notice of the annual meeting of the Association and of any special meetings of the Association shall be hand delivered or sent by first-class or certified mail, no fewer than ten (10) nor more than sixty (60) days prior to the date fixed for said meeting to each Owner entitled to vote at such meeting at such Owner's address as shown in the records of the Association or to any other mailing address designated in writing by the Owner. Such notice shall specify the place, date and hour of the meeting and a description of any matters that must be approved by the Owners for which the Owners' approval is sought at such meeting. The notice of a special meeting shall also include a description of the purposes for which the meeting is called. If any annual or special meeting of the Owners is adjourned to a different date, time or place, notice need not be given of the new date, time and place if the new date, time and place are announced at the meeting before adjournment. Notwithstanding the foregoing sentence, if the adjournment is for more than thirty (30) days, or if after the adjournment a new record date for the adjourned meeting is or must be fixed pursuant to Section 3.5 of these Bylaws or applicable law, notice of the adjourned meeting must be given pursuant to the requirements of this Section 3.3 to Owners entitled to vote at the meeting.

3.4. Meetings by Telecommunication. Any or all of the Owners may participate in an annual, regular, or special meeting by, or the meeting may be conducted through the use of, any means of communication by which all persons participating in the meeting may hear each other during the meeting.

3.5. Quorum. The presence in person or by proxy of Owners holding twenty-five percent (25%) or more of the total votes of the Association at any meeting of the Association held in response to notice to all Owners of record properly given shall constitute a quorum. In the absence of a quorum at an Association meeting, a majority of those present in person or by proxy may adjourn the meeting to another time, but may not transact any other business. An adjournment for lack of a quorum by those in attendance shall be to a date not less than five (5) nor more than thirty (30) days from the original meeting date. The quorum for an adjourned meeting shall also be twenty-five percent (25%) of the total votes of the Association. If the time and place for an adjourned meeting is not fixed by those in attendance at the original meeting, or if for any reason a new date is fixed for the adjourned meeting after adjournment, notice of the time and place of the adjourned meeting shall be given to members in the manner prescribed for regular meetings of the Association. Unless otherwise expressly provided in the Nonprofit Act, the Declaration and these Bylaws, any action may be taken at any meeting of the Owners upon a majority vote of the Owners who are present in person or by proxy.

3.6. Robert's Rules. Robert's Rules of Order Newly Revised (latest edition) shall govern the conduct of the Association's meeting when not in conflict with the Condominium Documents, the Nonprofit Act, or any special rules of order the Association may adopt.

3.7. Action by Written Ballot. Any action that may be taken at any annual or special meeting of the Owners may be taken without a meeting if the Association delivers a written ballot to every Owner entitled to vote on the matter. The written ballot shall set forth each proposed action; and provide an opportunity to vote for or against each proposed action. All solicitations for votes by written ballot shall (a) indicate the number of responses needed to meet the quorum requirements; (b) state the percentage of approvals necessary to approve each matter other than election of members of the Management Committee; (c) specify the time by which a ballot must be received by the Association in order to be counted; (d) be accompanied by written information sufficient to permit each person casting the ballot to reach an informed decision on the matter. Approval by written ballot pursuant to this Section 3.7 shall be valid only when:

3.7.1. The time by which all ballots must be received by the Association has passed so that a quorum can be determined; and

3.7.2. The number of approvals equals or exceeds the number of votes that would be required to approve the matter at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot.

3.8. Action by Written Consent. Other than the election of members of the Management Committee, any action that may be taken at any annual or special meeting of the Association may be taken without a meeting and without prior notice, if one or more consents in writing, setting forth the action taken, are signed by the Owners having not less than the minimum voting power that would be necessary to authorize or take the action at a meeting at which all Owners entitled to vote on the action were present and voted. Such consents shall be signed, dated and delivered to the Association within a sixty (60) day period. Notice must be given to those Owners who have not consented at least ten (10) days before the action takes effect.

3.9. Proxies. At each meeting of the Owners, each Owner entitled to vote shall be entitled to vote in person or by proxy. The right to vote by proxy shall exist only where the instrument authorizing such proxy to act shall have been executed by the Owner or by its attorney thereunto duly authorized in writing. The instrument authorizing the proxy to act shall be delivered, at the beginning of the meeting, to the President of the Association, or such other officer or person who may be acting as the secretary at the meeting. The secretary of the meeting shall enter a record of all such proxies in the minutes of the meeting. An Owner may revoke a proxy given pursuant to this Section only by actual notice of revocation to the Association. A proxy is void if it is not dated or purports to be revocable without notice.

3.10. Exercise of Voting. In the event that a Unit is owned by more than one Owner, the vote relating to such Unit shall be exercised by a majority of such Owners as may be determined among themselves. A vote cast at any meeting by any of such Owners shall be conclusively presumed to be the vote attributable to all Owners of the Unit concerned, whether or not all Owners of the Unit are present, unless an objection is immediately made by another Owner of the same Unit or such vote is in conflict with a written proxy given by another Owner of the Unit. In the event of such conflict or objection, the vote involved shall not be counted for any purpose whatsoever until the

matter is resolved to the reasonable satisfaction of the Management Committee. In such case, the Management Committee may, but shall not be required to, apportion such Unit's vote among the Owners thereof.

4. Officers.

4.1. Designation. So long as there are three (3) members of the Management Committee, the officers shall be a President-Treasurer, Vice President and Secretary. The Management Committee may appoint additional Vice Presidents and/or such other assistant officers as the Management Committee may deem necessary. No officer shall be required to be an Owner. No officer shall receive compensation for serving as such. All officers and employees of the Association shall serve at the will of the Management Committee. Officers shall be annually elected by the Management Committee and may be removed and replaced by the Management Committee.

4.2. Fidelity Bond. The Management Committee shall require that officers (and other employees of the Association) be subject to fidelity bond coverage.

4.3. President-Treasurer. The President shall be the chief executive of the Management Committee and shall preside at all meetings of the Association and of the Management Committee and may exercise the power ordinarily allowable to the presiding officer of an association, including the appointment of committees. The President shall exercise general supervision over the Project and its affairs. He or she shall sign, and either the Vice President or Secretary shall witness, on behalf of the Association, all conveyances, mortgages and contracts of material importance to its business. Additionally, he or she shall be responsible for the fiscal affairs of the Association, but may delegate the daily handling of funds and the keeping of records to the Manager. He or she shall do and perform all acts which the Management Committee may require.

4.4. Vice President. The Vice Presidents shall perform the functions of the President in his or her absence or inability to serve.

4.5. Secretary. The Secretary shall keep minutes of all proceedings of the Management Committee and of the meetings of the Association and shall keep such books and records as may be necessary and appropriate for the records of the Owners and the Management Committee.

4.6. Execution of Amendments. Any officer may prepare, execute, certify and record amendments to the Declaration on behalf of the Association.

5. Common Expenses; Assessments.

5.1. Common Assessments. All Common Expenses shall be assessed in accordance with the Declaration.

5.2. Common Expenses. The Management Committee shall approve or disapprove the estimated Common Expenses and capital contributions for the coming

fiscal year. Common Assessments shall be assessed on an annual basis, unless the Management Committee determines otherwise, to the Owners.

5.3. No Exemption. No Owner shall be exempt from liability for Common Expenses by waiver of the use or enjoyment of any of the Project or by abandonment of his or her Unit.

5.4. Assessment Records. The President-Treasurer shall keep detailed records of all receipts and expenditures, including expenditures affecting the Project, specifying and itemizing the maintenance, repair and replacement expenses of the Project and any other expenses incurred. Such records shall be available for examination by the Owners during regular business hours. In accordance with the actions of the Management Committee in assessing Common Expenses against the Units, the President-Treasurer shall keep an accurate record of such Common Assessments and of the payments thereof by each Owner.

5.5. Transfer. In the event of any transfer of a fee interest in a Unit, either the transferor or the transferee shall furnish evidence establishing that the transfer has occurred. An Owner who fails to furnish such information shall continue to be liable for assessments and Common Expenses, even after transferring ownership of his or her Unit, until the Association is advised of the transfer.

5.6. Personal Obligation. All Common Assessments shall be a separate, distinct and personal liability of the Owners at the time each Common Assessment is made. The Management Committee shall have the rights and remedies contained in the Act and in the Declaration to enforce the collection of Common Assessments.

5.7. Statements for Purchasers. Any person who shall have entered into a written agreement to purchase a Unit, by written request directed to the Management Committee, shall be entitled to obtain a written statement from the President-Treasurer setting forth the amount of the monthly, quarterly, annual or other periodic Common Assessments and the amount of unpaid Common Assessments charged against such Unit and its Owner(s), and if such statement does not reveal the full amount of the unpaid Common Assessments as of the date it is rendered, neither the purchaser nor the Unit shall be liable for the payment of an amount in excess of the unpaid Common Assessments shown thereon, provided that the former Owner shall remain so liable. Any such excess which cannot be promptly collected from the former Owner-grantor shall be reassessed by the Management Committee as a Common Expense to be collected from all Owners, including without limitation the purchaser of such Unit, his or her successors and assigns. The new Owner shall, and the former Owner shall not be liable for any Common Assessments made after the date of transfer of title, even though the expenses incurred or the advances made by the Management Committee for which the Common Assessment is made relate in whole or in part to any period prior to that date. The Management Committee is authorized to require a reasonable fee not to exceed \$10.00, unless otherwise authorized by the Act, for furnishing such statements.

5.8. Statements for Owners and Mortgagees. In addition to the statements issuable to purchasers, the Management Committee shall, upon ten (10) days' prior

written request therefor, provide to any Owner and to any Mortgagee, on request at reasonable intervals a current statement of unpaid Common Assessments for Common Expenses, capital contributions, and for any expenses of and advances by the Management Committee with respect to a Unit. The Management Committee is authorized to require a reasonable fee not to exceed \$10.00, unless otherwise authorized by the Act, for furnishing such statements.

5.9. Collection. In all cases where all or part of any Common Assessments for Common Expenses and capital contributions and for any expenses of and advances by the Management Committee cannot be promptly collected from the persons or entities liable therefor under the Declaration or these Bylaws, the Management Committee shall reassess the same as a Common Expense without prejudice to its right of collection against such persons or entities, or without prejudice to its lien for such Common Assessments.

6. Litigation.

6.1. Expenses. If any action is brought by a member of the Management Committee on behalf of the Association, the expenses of suit, including reasonable attorneys' fees, shall be a Common Expense. Except as otherwise provided by the Declaration or applicable Utah law, if any action is brought against the Owners or against the Management Committee or the officers, employees or agents thereof in their capacities as such, with the result that the ultimate liability asserted would, if proved, be borne by all the Owners, the expenses of suit, including attorneys' fees, shall be a Common Expense. If any action is brought against one or more, but less than all Owners, with the result that the ultimate liability would, if proved, be borne solely by such Owners, the expenses of suit, including attorneys' fees, shall not be charged to or borne by the other Owners, as a Common Expense or otherwise.

6.2. Defense. Except as otherwise provided by applicable Utah law, any action brought against the Association, the Management Committee or the officers, employees or agents thereof, in their respective capacities as such, or the Project as a whole, shall be directed to the Management Committee, and shall be defended by the Management Committee; and the Owners and Mortgagees shall have no right to participate in such defense other than through the Management Committee. Actions against one or more, but less than all Owners, shall be directed to such Owners, who shall promptly give written notice thereof to the Management Committee, and shall be defended by such Owners.

7. Enforcement.

7.1. Abatement and Enjoinment of Violations by Owners. The violation of any rules or regulations adopted by the Management Committee, the breach of any provision contained herein or the breach of any provision of the Declaration shall give the Management Committee the right, in addition to any other rights set forth in these Bylaws:

7.1.1. To enter the Unit in which or as to which such violation or breach exists and to summarily abate and remove, at the expense of the defaulting Owner or Owners, any structure, thing or condition that may exist therein contrary to the intent and meaning of the provisions hereof, and the Management Committee shall not thereby be deemed guilty in any manner of trespass provided that items of construction may not be altered or demolished without proper judicial proceedings; and/or

7.1.2. To enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any such breach.

7.2. Monetary Fines. The Management Committee may assess a fine against an Owner for violations of the Condominium Documents provided that the Management Committee shall give notice to the Owner of the violation and inform the Owner that a fine will be imposed if the violation is not cured within the time designated by the Management Committee, which shall be at least 48 hours. The Management Committee may levy fines in the amounts that it, in its sole discretion, shall determine to be reasonable for each violation of the Condominium Documents provided that cumulative fines for a continuing violation may not exceed \$500 per month unless otherwise allowed by law. An Owner who is assessed a fine may request an informal hearing to protest or dispute the fine within thirty (30) days from the date the fine is assessed.

7.3. Remedies Cumulative. These remedies are cumulative to other remedies provided in the Declaration and these Bylaws, any rules or regulations adopted by the Management Committee, or in any other applicable laws.

## 8. Accounting.

8.1. Accounting and Recordkeeping. The books and accounts of the Association shall be kept in accordance with generally accepted accounting procedures under the direction of the President-Treasurer. The Association shall maintain financial records, records of Assessments as required by Section 5.4 above and such other records as required by the Declaration or by law. The cost of any audit shall be a Common Expense unless otherwise provided in the Declaration.

8.2. Financial Statements. At the close of each fiscal year, the books and records of the Association shall be prepared by an independent public accountant approved by the Management Committee, and financial statements shall be prepared by said accountant and distributed to all Owners.

8.3. Budget. A budget for each fiscal year shall be adopted by the Management Committee and distributed to all members of the Association prior to the beginning of the fiscal year to which the budget applies.

8.4. Maintenance and Inspection of Records. The membership register, including mailing addresses and telephone numbers, books of account and minutes of meetings of the Association, of the Management Committee and of committees of the Management Committee and all other records of the Project maintained by the

Association, or Manager shall be made available for inspection and copying by any member of the Association or his or her duly appointed representative at any reasonable time and for a purpose reasonably related to his or her interest as an Owner, at the office where the records are maintained. Upon receipt of an authenticated written request from an Owner along with the fee prescribed by the Management Committee to defray the costs of reproduction, the custodian of records of the Association shall prepare and transmit to the Owner a copy of any and all records requested. The Association may, as a condition to permitting an Owner to inspect the membership register or to its furnishing information from the register, require that the Owner agree in writing not to use, or allow the use, of information from the membership register for commercial or other purposes not reasonably related to the regular business of the Association and the Owner's interest in the Association. The Management Committee shall establish reasonable rules with respect to:

8.4.1. Notice to be given to the custodian of the records by the Owner desiring to make the inspection or obtain copies;

8.4.2. Hours and days of the week when such an inspection may be made; and

8.4.3. Payment of the cost of reproducing copies of documents requested by an Owner.

Every member of the Management Committee shall have the absolute right at any time to inspect all books, records and documents of the Association and to inspect all real and personal properties owned or controlled by the Association. This right of inspection shall include the right to make extracts and copies of records, subject only to the right of the Association to require that the Management Committee member agree in writing not to use, or allow the use of, the information from the membership register for commercial or other purposes not reasonably related to the business of the Association and the Management Committee member's interest in such Association.

## 9. Rental or Lease of Units by Owners.

9.1. Rental Agreement. Any Owner who rents or leases his or her Unit for thirty (30) days or more in duration shall file with the Management Committee a copy of the rental or lease agreement.

9.2. Owner Responsible. The provisions of the Declaration and these Bylaws shall apply with equal force to all guests and tenants of the Owners. Any Owner who rents or leases or otherwise permits any other person to utilize his or her Unit shall be responsible for the conduct of his or her tenants or occupants, and upon written notice from the Management Committee, said Owner shall be responsible for correcting violations of the Declaration, these Bylaws or the rules and regulations committed by such tenants or occupants.

9.3. Violations. If an Owner fails to correct violations by tenants within seventy-two (72) hours of such notice, the Management Committee shall be deemed to be

the agent of the Owner and empowered to take any enforcement action the Owner would be entitled to take, the reasonable costs of such action, including but not limited to fees and costs paid to third parties, to be assessed to the Owner and payable within thirty (30) days of Common Assessment. Such costs shall be collected and enforced in the same manner as Common Expenses under the Declaration.

9.4. Remedies. The power of the Management Committee hereunder shall include but not be limited to any and all legal remedies available under the laws of the State of Utah. Any Owner by the act of renting, leasing or otherwise permitting any other person to utilize his or her Unit shall be deemed to have consented to these procedures and shall indemnify and save harmless the Management Committee from and against any and all liability therefor. It is expressly understood that the remedies available to the Management Committee shall include but not be limited to the right to seek eviction of the tenant without any liability to the Owner.

9.5. Collection and Application of Rents. As provided for in Section 12.11 of the Declaration, if an Owner shall at any time lease or sublet his or her Unit for a period of one month or more and shall default in the payment of Common Assessments, the Management Committee may, at its option, so long as such default shall continue, demand and receive from any tenant of the Owner the rent due or becoming due, and the payment of such rent to the Management Committee shall be sufficient payment and discharge of such tenant and the Owner for such Common Assessments to the extent of the amount so paid. This Section 9.5 shall be incorporated by reference into every lease agreement entered into by and between an Owner and his or her tenant, whether or not this Section is expressly referenced therein.

#### 10. Amendment of Bylaws.

Except as otherwise provided in the Declaration, these Bylaws, or by applicable law, the Bylaws may be amended by the vote or written assent of Owners holding a majority of the total votes of the Association present in person or by proxy at a meeting duly called for such purpose. Provided, however, the percentage of the voting power necessary to amend a specific clause or provision shall not be less than the percentage of affirmative votes prescribed for action to be taken under that clause. Upon such an affirmative vote, the Management Committee shall acknowledge the amended Bylaws, setting forth the fact of the required affirmative vote of the Owners, and the amendment shall be effective upon recording in the Office of the Recorder of Utah County, Utah. Notwithstanding anything to the contrary contained or implied herein, Declarant during the Declarant Control Period, shall have the right to unilaterally amend these Bylaws without the vote or consent of the Management Committee or any Owner pursuant to the unilateral amendment procedures reserved to Declarant under the Declaration.

#### 11. Miscellaneous.

11.1. Severability. The provisions hereof shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any one provision or portion hereof shall not affect the validity or enforceability of any other provision hereof.



11.2. Waiver. The failure of the Management Committee to insist upon strict performance of any provisions hereof shall not be construed as a waiver for future purposes with respect to any such provision or option. No provision of these Bylaws shall be deemed to have been waived unless such waiver is in writing and signed by the Management Committee.

11.3. Captions. The captions herein are inserted only as a matter of convenience and for reference and in no way to define, limit or describe the scope of these Bylaws nor the intent of any provision hereof.

11.4. Effective Date. These Bylaws shall take effect as of the date of the Declaration, having been duly adopted by the Management Committee.

11.5. Counterparts. These Bylaws may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

EXECUTED this 21 day of MARCH, 2006.

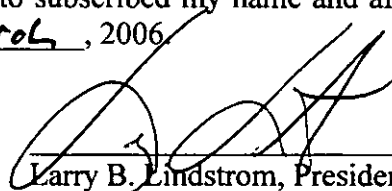
CERTIFICATION

I, the undersigned, do hereby certify:

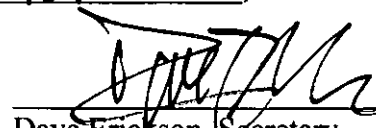
That I am a duly appointed President-Treasurer of Springbrook Villas Condominiums Owners Association, Inc., a Utah nonprofit corporation;

That the foregoing Bylaws constitute the original Bylaws of said Association, as duly adopted at a meeting of the Management Committee thereof held on the 21 day of March, 2006.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of said Association (if any) this 21 day of March, 2006.


  
Larry B. Lindstrom, President-Treasurer

Certified to be the Bylaws adopted by the Management Committee of Springbrook Villas Condominiums Owners Association, Inc. dated 3/21, 2006.

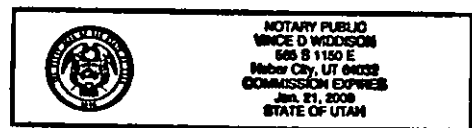
  
Dave Erickson, Secretary

STATE OF Utah )  
 ) : ss.  
COUNTY OF Salt Lake )

The foregoing instrument was acknowledged before me this 21<sup>st</sup> day of March, 2006, by Larry B. Lindstrom and Dave Erickson, the President-Treasurer and Secretary of the Springbrook Villas Condominiums Owners Association, Inc., a Utah nonprofit corporation.

  
NOTARY PUBLIC  
Residing at: Utah County

My Commission Expires: Jan. 21, 2009



**EXHIBIT C****Additional Land Legal Description****SPRINGBROOK VILLAS PLAT "B"**

BEGINNING AT A POINT WHICH IS NORTH 959.61 FEET AND EAST 1,271.07 FEET FROM THE SOUTH QUARTER CORNER OF SECTION 32, TOWNSHIP 7 SOUTH, RANGE 3 EAST, SALT LAKE BASE AND MERIDIAN; THENCE NORTH  $13^{\circ}51'33''$  EAST 111.15 FEET; THENCE SOUTH  $89^{\circ}26'36''$  EAST 202.26 FEET; THENCE NORTH  $88^{\circ}50'00''$  EAST 666.92 FEET; THENCE SOUTH  $89^{\circ}26'36''$  EAST 59.00 FEET; THENCE NORTH  $00^{\circ}33'24''$  EAST 111.06 FEET TO A POINT OF CURVATURE; THENCE NORTHERLY 10.00 FEET ALONG THE ARC OF A 15.00 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF  $38^{\circ}12'55''$ , THE CHORD OF WHICH BEARS NORTH  $19^{\circ}39'51''$  EAST 9.82 FEET TO A POINT OF REVERSE CURVATURE; THENCE NORTHERLY 118.17 FEET ALONG THE ARC OF A 55.00 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF  $123^{\circ}06'28''$ , THE CHORD OF WHICH BEARS NORTH  $22^{\circ}46'55''$  WEST 96.72 FEET TO A POINT OF NON-TANGENCY; THENCE NORTH  $00^{\circ}17'39''$  EAST 160.73; THENCE SOUTH  $89^{\circ}26'13''$  EAST 199.28 FEET; THENCE SOUTH  $00^{\circ}15'00''$  WEST 69.11 FEET; THENCE NORTH  $89^{\circ}56'14''$  EAST 11.35 FEET; THENCE SOUTH  $00^{\circ}33'24''$  WEST 489.37 FEET; THENCE SOUTH  $01^{\circ}41'39''$  EAST 143.83 FEET TO THE NORTHERLY LINE OF 400 SOUTH UDOT RIGHT-OF-WAY; THENCE THE FOLLOWING 2 (TWO) COURSES BEING ALONG THE NORTHERLY LINES OF SAID 400 SOUTH: (1) SOUTH  $87^{\circ}13'42''$  WEST 770.94 FEET; (2) NORTH  $89^{\circ}46'49''$  WEST 317.29 FEET; THENCE NORTH 240.00 FEET; THENCE NORTH  $76^{\circ}08'27''$  WEST 46.25 FEET TO THE POINT OF BEGINNING.

PARCEL CONTAINING 10.43 ACRES MORE OR LESS.

BASIS OF BEARING: NORTH  $88^{\circ}33'19''$  EAST FROM THE SOUTH QUARTER CORNER OF SECTION 32 TO THE SOUTHEAST CORNER OF SAID SECTION.