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Kirk Nielsen
Portico Real Estate Development Corporation
4376 S 700 E Suite 201
Salt Lake City, UT 84107

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GARY W. OTT
RECORDER, SALT LAKE COUNTY, UTAH
KIRK NIELSEN
PORTICO REAL EST DEV CORP
4376 S 700 E STE 201
SLC UT 84107
BY: SEM, DEPUTY - WI 22 P.

**DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
HOLLADAY OAKS P.U.D.
(A Planned Unit Development)**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS ("Declaration") is made and executed as of _____, 2005 by **PORTICO REAL ESTATE DEVELOPMENT CORPORATION**, a Utah corporation (the "**Declarant**").

RECITALS:

A. Description of Land. The planned unit development (the "**Project**") that is the subject of this Declaration is situated in and upon that certain real property (the "**Subject Land**") located in Salt Lake County, State of Utah, as specifically described in **Exhibit A** attached hereto and incorporated herein by this reference. Declarant has prepared and has recorded in the below-described Plat in the office of the County Recorder for Salt Lake County, State of Utah. There are eleven (11) Lots in the Project, as shown on the Plat.

B. Association and Bylaws. Holladay Oaks Homeowners Association, Inc. (the "**Association**"), has been created concurrently herewith by filing Articles of Incorporation therefor ("**Articles**") with the Utah Division of Corporations and Commercial Code. The Association shall henceforth be the governing body of the Project subject hereto and shall operate in accordance with the Association's Bylaws (the "**Bylaws**").

C. Intent and Purpose. Declarant intends by recording this Declaration and the Plat to submit the Subject Land and all improvements situated upon the Subject Land to the applicable ordinances and statutes of Salt Lake County (collectively the "**Code**"), and to impose upon said property mutually beneficial restrictions under a general plan of improvement for the benefit of all Lots within said Project and the Owners thereof.

**ARTICLE I
DEFINITIONS**

1.1 Defined Terms. Unless the context clearly indicates otherwise, certain terms as used in this Declaration shall have the meanings set forth in this Article.

1.2 "Board of Directors" or "Board" shall mean the Board of Directors of the Association.

1.3 "Common Areas" shall mean all of the Subject Land except all Lots, including without limiting the generality of the foregoing, all streets, recreation areas, and other areas specifically shown on the Plat as Common Areas, together with all equipment, facilities, fixtures, and other personal property and real property improvements located thereon and/or owned by the Association for the use and benefit of all Owners, including without limiting the generality of the foregoing, all streets, curb and gutter improvements, pools, spas, playgrounds, sports courts, basketball courts, trees, bushes and other landscaping, and all equipment, fixtures, facilities, and other personal property and real property improvements hereafter purchased in accordance with this Declaration with monies from the Common Expense Fund. All Common Areas shall be managed and controlled by the Association for the common use and enjoyment of the Owners as more fully described in this Declaration.

1.4 "Common Expense Fund" shall mean the fund created or to be created pursuant to the provisions of **Article IX** of this Declaration and into which all funds of the Association shall be deposited.

1.5 "Lot" shall mean each individual parcel of real property shown on the Plat as a Lot, together with all improvements located thereon and all appurtenances thereunto appertaining.

1.6 "Manager" shall mean the person, firm, or company, if any, designated from time to time by the Association to manage, in whole or in part, the affairs of the Association and the Project.

1.7 "Member" shall mean a member of the Association.

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

1.9 "Mortgagee" shall mean (i) any person named as the mortgagee or beneficiary under any Mortgage, or (ii) any successor to the interest of such person under such Mortgage.

1.10 "Owner" shall mean any person or entity or combination thereof, including the Declarant, at any time owning a Lot within the Project, as shown on the records of Salt Lake County, State of Utah. The term "Owner" shall not refer to any Mortgagee (unless such Mortgagee has acquired title for other than security purposes) or to any person or entity purchasing a Lot under contract until such contract is fully performed and legal title conveyed.

1.11 "Plat" shall mean the Plat for Holladay Oaks P.U.D., a residential planned Lot development, as recorded in the office of the County Recorder for Salt Lake County, State of Utah, on _____ as Entry No. _____, in Book _____, at Page _____.

1.12 "Total Votes of the Association" shall mean the total number of votes appertaining to the Lots in the Project as provided below.

ARTICLE II DIVISION OF PROJECT

2.1 Submission to Code. All of the Subject Land is and shall be held, conveyed, hypothecated, encumbered, leased, rented, used, and improved as a planned unit development to be known as Holladay Oaks P.U.D. All of said Subject Land is and shall be subject to the covenants, conditions, restrictions, easements, uses, limitations, and obligations set forth herein and in the Plat, each and all of which are declared and agreed to be for the benefit of the Project and in furtherance of a plan for improvement of said property and division thereof into Lots. Further, each and all of the provisions hereof shall be deemed to run with the land and shall be a burden and a benefit to the Declarant, its successors and assigns, and any person acquiring, leasing, or owning an interest in any Lot, their lessees, heirs, executors, administrators, devisees, successors and assigns.

2.2 Subdivision into Lots. Pursuant to the Plat, the Subject Land is divided into Lots as more particularly described on the Plat. The Owner of each Lot, regardless of the size, purchase price or location of the Lot, shall have an equal undivided interest in, and right to use, the Common Areas. The Declarant, with the recordation of this Declaration, hereby quitclaims all of its right, title and interest in and to all of the Common Areas outside of the Lots, as more particularly shown on the Plat, without warranty, to the Association, to be held and administered in accordance with the provisions of this Declaration.

2.3 Easements. The Declarant, its successors and assigns, shall have a transferable easement over and on the Common Areas, including roads providing ingress and egress to the Project, for the purpose of doing all things reasonably necessary and proper for the construction, completion, development and sale of the Project.

ARTICLE III IMPROVEMENTS

3.1 Description of Improvements. The Project consists of eleven (11) Lots as shown on the Plat. Each of the Lots shall, when improved, contain one single family residence, which shall be principally constructed of wood frame, brick, stucco, drywall interiors and asphalt shingle roofs, and such other materials as allowed by current building codes.

3.2 Description and Legal Status of Lots. The Plat shows the number of each Lot. All Lots shall be capable of being independently owned, encumbered, and conveyed.

3.3 Building Area. No house, garage, shed or other improvement, other than landscaping, sidewalks, driveways, street lights and curb and gutter improvements, shall be located on any Lot outside of the original structure building area without the prior written approval of the Association. The Association, or any Owner, shall have the right to restrain the Owner of any Lot from violating the restrictions set forth in this Section, and in the event the party seeking to enforce these restrictions prevails in an action in court or otherwise, the Owner attempting to violate the restrictions shall be obligated to pay all of the costs, including reasonable attorneys' fees, incurred by the party enforcing these restrictions.

**ARTICLE IV
NATURE AND INCIDENTS OF OWNERSHIP**

4.1 Ownership and Maintenance of Lots. Each Owner shall have the exclusive right to construct, improve, reconstruct and repair the house and other improvements located on his Lot, subject to the other provisions hereof. Each Lot, and the improvements located thereon, being the sole and exclusive property of the Owner thereof, shall be maintained and repaired by the Owner and shall be kept in a clean and sanitary condition and in a state of good repair, subject to the right and obligation of the Association to maintain certain portions of the Lots as described in the provisions of **Section 4.5** below.

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

4.3 Prohibition Against Subdivision of Lot. No Owner, by deed, plat or otherwise, shall subdivide or in any manner cause his Lot to be subdivided, partitioned or separated into physical tracts or parcels smaller than the whole Lot as shown on the Plat.

4.4 Ownership and Use of Common Areas. The Association shall own, control and/or administrate all Common Areas for the common use and enjoyment of the Owners, and the Association shall have the exclusive right and obligation to manage and maintain all Common Areas, and to repair, replace and reconstruct any existing or new Common Areas. The Owners, pursuant to action taken in accordance with this Declaration and the Articles and Bylaws, may determine from time to time, subject to any required governmental approval, what improvements will be constructed or located on the Common Areas. Each Owner shall have an irrevocable license and easement to use, occupy and enjoy all Common Areas in common with other owners. Except as otherwise provided in this Declaration, each Owner shall be entitled to the nonexclusive use of the Common Areas in any manner that does not hinder or encroach upon the rights of other Owners and is not contrary to any rules or regulations promulgated by the Association. Each Owner will be responsible for an equal share of the taxes, insurance, maintenance and other costs and expenses relating to the Common Areas.

4.5 Maintenance of Landscaping, Sidewalks and Driveways. The Association shall (a) maintain, clean, repair and keep in a sanitary condition and in a state of good repair all Common Areas and perimeter walls; (b) remove all snow from all Common Areas as well as all driveways and sidewalks located in the front of houses on the Lots; (c) mow and fertilize all lawns and maintain planting areas around all houses which includes planting flowers each spring, both on Common Areas and Lots; (d) maintain and control the irrigation systems that water lawns and planting areas and (e) re-construct and repair all Common Areas at such time as the same are in a state of disrepair and require replacement. Notwithstanding the foregoing to the contrary, (i) Owners may choose to maintain their own planting areas by planting flowers, ground covers and other plants within the planting areas as long as it is in keeping with the quality of the Project, provided, however, that the Association may prohibit, remove or alter any such individual gardening if the Board deems such to be inconsistent or out of harmony with the general landscaping of the Project, and (ii) Owners shall maintain and keep in a state of good repair driveways and sidewalks on their Lots.

4.6 Fences and Walls. The Maintained Areas shall include all fences and walls located in the Project that separate the Project from contiguous property not a part of the Project that were installed by Declarant upon initial construction of the Project ("**Perimeter Fences**"). The Maintained Areas shall not include any fences or walls that are constructed by Owners pursuant to rights hereinafter provided for in this Section. The Association shall have the exclusive right to construct, locate, maintain, repair, reconstruct and remove any Perimeter Fences. However, no Perimeter Fences shall be removed except with the approval of Owners owning a majority of the Lots in the Project, at a meeting of the Owners duly held in accordance with the provisions of this Declaration, the Articles and Bylaws. No additional fences or walls shall be located within the Project without the approval of the Board of Directors, and shall be limited to fences (a) which match the color, style and materials of the Perimeter Fences, which are tan vinyl, black wrought iron or tan concrete, and (b) in the locations shown on **Exhibit B**, which shall generally consist of fences with at least one gate for lawn mowing access running from a house to the adjacent house or a house to perimeter fence. Landscaping as otherwise permitted herein may be used for privacy barriers as long as such landscape barriers are placed where fencing is allowed. It is the intent hereof that that the Owner of the house with the closest adjacent patio can use his patio and the lawn area between such houses all the way up to the corner of such neighboring house. The Board of Directors will control the construction, maintenance and reconstruction of any fences allowed by the provisions hereof to assure that they are constructed of similar materials and that they are harmonious with the overall architecture and aesthetics of the Project.

4.7 Inseparability. Title to any part of a Lot may not be separated from any other part thereof. Every devise, encumbrance, conveyance, or other disposition of a Lot, or any part thereof, shall be construed to be a devise, encumbrance, conveyance, or other disposition, respectively, of the entire Lot, together with all appurtenant rights created by law or by this Declaration, including appurtenant membership in the Association as hereinafter set forth, and an irrevocable license to use, occupy and enjoy the Common Areas in common with all Owners.

4.8 No Partition. The Common Areas shall be owned by the Association and/or the Owners, in accordance with the provisions of this Declaration, and no Owner nor the Association may bring any action for partition thereof.

4.9 Separate Mortgages by Owners. Each Owner shall have the right separately to mortgage or otherwise encumber his Lot. No Owner nor the Association shall attempt to or shall have the right to separately mortgage or otherwise encumber the Common Areas and Common Facilities or any part thereof except as to the undivided interest therein appurtenant to the Lot. Any mortgage or other encumbrance of any Lot shall be subordinate to all of the provisions of this Declaration, and in the event of foreclosure the provisions of this Declaration shall be binding upon any Owner whose title is derived through foreclosure by private power of sale, judicial foreclosure, or otherwise.

4.10 Separate Taxation. Each Lot and all improvements located thereon shall be assessed separately for all taxes, assessments, and other charges of the State of Utah or of any political subdivision thereof or of any special improvement district or of any other taxing or assessing authority. The Common Areas shall be deemed to be a parcel and shall be assessed separately for all taxes, assessments, and other charges of the State of Utah or of any political subdivision thereof or of any special improvement district or of any other taxing or assessing

authority. All such taxes, assessments, and other charges on each respective Lot shall be separately levied against the Owner thereof. All such taxes, assessments, and other charges on the Common Areas shall be separately levied against the Association. No forfeiture or sale of any Lot for delinquent taxes, assessments, or other governmental charges shall divest or in any way affect the title to any other Lot.

4.11 Mechanics' Liens. No labor performed or material furnished for use in connection with any Lot with the consent or at the request of an Owner or his agent or contractor shall create any right to file a statement, claim, or notice of mechanic's lien against the Lot of any other Owner not expressly consenting to or requesting the same or against any Common Areas even if existing by easement over the subject Lot.

4.12 Description of Lot. Every contract for the sale of a Lot and every other instrument affecting title to a Lot within the Project may describe a Lot by its identifying number or symbol as indicated in this Declaration or as shown on the Plat. Such description will be construed to describe the Lot and to incorporate all the rights incident to ownership of a Lot within the Project and all of the limitations on such ownership.

4.13 Non-Exclusive Easements. All streets constituting Common Areas that provide access to public roads outside of the Project shall be easements for the exclusive use of the Owners, their guests, occupants, lessees, and invitees.

4.14 Mortgages and Liens on Common Areas. No Owner nor the Association shall attempt or have the right to mortgage or otherwise encumber the Common Areas or any part thereof. No labor performed or material furnished for use in connection with the Common Areas shall create any right to file a statement, claim, or notice of mechanic's lien against the Common Areas.

ARTICLE V EASEMENTS

5.1 Easements for Maintenance. The Association shall have the irrevocable right to have access from time to time to all Common Areas and to all Maintained Areas during such reasonable hours as may be necessary for the maintenance, cleaning, repair, and replacement thereof or for making emergency repairs at any time herein necessary to prevent damage to the Common Areas.

5.2 Easement For Ingress and Egress. Each Owner shall have an easement for ingress and egress over, upon, and across the Common Areas as necessary for access to such Owner's Lot, and such rights shall be appurtenant to and pass with the title to each Lot.

5.3 Easement For Fences and Privacy Barriers and Usage of Areas Adjacent to Patios. Each Owner shall have an easement for the placement and maintenance of fences and privacy barriers and the use of areas adjacent to patios as set forth in Section 4.6 above.

5.4 Easement for Completion of Project. Declarant shall have a transferable easement over and on the Common Areas and Lots for the purpose of completing construction of the Project and improvements therein and for the purpose of doing all things reasonably necessary or appropriate in connection therewith. To the extent that damage is inflicted on any part of the

Project by any person utilizing said easement, and the person causing the damage shall be liable for the prompt repair of such damage.

5.5 Easements Deemed Created. All conveyances of Lots within the Project hereafter made, whether by Declarant or otherwise, shall be construed to grant and reserve such reciprocal easements as are provided herein, even though no specific reference to such easements appears in any such conveyance. All easement created under this Declaration shall be perpetual unless otherwise specified.

5.6 Easements Reserved by Declarant and Association. The Association shall have power to grant and convey to any third party and Declarant hereby reserves unto itself easements and rights of way, including but not limited to rights of ingress and egress, in, on, over and under the Common Areas, for the purpose of constructing, erecting, operating and maintaining lines, cables, wires, conduits or other devices for electricity, cable television, power, telephone and other purposes, public sewers, storm drains and pipes, water systems, sprinkling systems, water, heating and gas lines or pipes, and any similar public or quasi-public improvements or facilities to provide common utility services to the Project.

ARTICLE VI RESTRICTIONS ON USE

6.1 Residential Uses Only. Each Lot contained in the Project is intended to be used for single family residential housing and is restricted to such use. No Lot shall be used for business or commercial activity except as approved in writing by the Board; provided, however, that nothing herein shall be deemed to prevent (a) Declarant or its duly authorized agent from using any Lots owned by Declarant or any part of the Common Areas as sales models or property management offices, or (b) any Owner or his duly authorized agent from freely renting or leasing his Lot from time to time subject to the provisions of **Section 6.11**.

6.2 No Noxious or Offensive Activity. No noxious or offensive activity shall be carried on, in, or upon any part of the Project, nor shall anything be done or placed in or upon any part of the Project which is or may become a nuisance or may cause embarrassment, disturbance, or annoyance to Owners. No activities shall be conducted, nor improvements constructed, in or upon any part of the Project which are or may become unsafe or hazardous to any person or property. No colored (particularly red) light bulbs may be placed in the houses permanent exterior fixtures except during the Christmas season and then only if it is in good taste. No trash, garbage, or other waste or unsightly materials shall be left outside of any enclosed structure. Garage doors are to be kept closed when not in use.

6.3 Restriction on Recreational Vehicles. No boats, trailers, recreational vehicles ("RVs"), trucks, commercial vehicles, or inoperable vehicles shall be parked or stored in or upon any of the Common Areas, except that RVs may be parked on streets and community parking stalls, if any, for no more than one consecutive night without the written consent of the Association.

6.4 Restriction on Signs. Except as may be temporarily necessary to caution or warn of danger, and except for temporary signs, reasonable in size, design and location, for the sale of a Lot by Declarant or other Owner thereof, no signs or advertising devices of any nature, including

without limitation commercial, political, informational, or directional signs or devices, shall be erected or maintained on any portion of the Project without the prior inspection and written approval of the Board. One "for sale" sign not to exceed 2'x3' in size may be placed at each of (a) the Project entrance, and (b) on the North side of the Perimeter Fence located on 4500 South Street, by Owners selling their homes; if two or more Owners are selling at the same time, they must combine their information onto one sign. One lawn stake sign not to exceed 2'x2' in size nor 36" in height may be placed in the front yard of a house that is for sale. If the Board consents to the erection of any such signs or devices, the same shall be promptly removed at the request of the Board. None of the foregoing shall be construed as to limit in any way Declarant's right and easement to locate and relocate its sales offices and all similar signs, banners or similar sales devices upon the Common Areas.

6.5 No Structural Alterations; Satellite Dishes. No Owner shall, without the prior written consent of the Association, make or permit to be made any structural alteration, improvement, or addition, including without limitation any fences, walls or patios, to the exterior of the house located on his Lot, or to the Maintained Areas on his Lot, without the prior written consent of the Board, which consent may be granted or withheld in the Board's sole discretion. Notwithstanding the foregoing, the Board will reasonably grant permission for installation by an Owner of a satellite dish that is reasonably located and which does not exceed two feet in diameter, provided the same is located on the back of houses if possible, and in a reasonably inconspicuous locations. No Owner shall, without the prior written consent of the Association, do any act that would impair the safety of property or impair any easement appurtenant to the Project.

6.6 No Obstructions, Parking. There shall be no obstruction of the Common Areas or shared driveways. Except with the prior written consent of the Association, Owners shall neither store nor leave any of their property in the Common Areas. Specifically, without limiting the generality of the foregoing, no vehicles of any kind may be parked on any of the Common Areas, streets, individual driveways, or shared driveways for more the one consecutive night. An exception may be made to allow extended overnight parking with the written consent of the Association if a guest is staying for a longer period. If this rule is broken a written warning will be delivered to the owner that the vehicle will be towed within 48 hours if it is not removed. Vehicles may be parked in owners own driveway overnight.

6.7 Prohibition of Damage and Certain Activities. Except with the prior written consent of the Association, nothing shall be done or kept in or on any Lot, in the Common Areas, or in any other part of the Project which may result in cancellation of any insurance on the Project or any part thereof, nor shall anything be done or kept in or on any Lot which may increase the rate of insurance on the Project or any part hereof over that which the Association, but for such activity, would have to pay. Nothing shall be done or kept in or on any Lot or in the Common Areas or any part thereof which would be in violation of any statute, rule, ordinance, regulation, permit, or other validly imposed requirement of any governmental authority. No damage to, or waste of, the Common Areas or any part thereof shall be committed by any Owner or guest or invitee of any Owner, and each Owner shall indemnify and hold the Association and other Owners harmless against all loss resulting from any such damage or waste caused by such Owner, his guests, lessees, licensees, or invitees.

6.8 Rules and Regulations. The Owners shall comply with all of the rules and

regulations governing use of the Common Areas, as such rules and regulations may from time to time be adopted, amended, or revised by the Board of Directors. The Project is a gated community, and the Board shall promulgate rules for entry gate operation and usage.

6.9 Construction Period Exemption. During the course of actual construction of any structures or improvements which are permitted to be located on the Project, the provisions, covenants, conditions, and restrictions contained in this Declaration shall be deemed waived to the extent necessary or convenient to permit such construction; provided, however, that during the course of such construction, nothing shall be done which would result in a violation of any of said provisions, covenants, conditions, or restrictions following completion of such construction. The Declarant shall have the right to leave the gates open during construction.

6.10 Pets and Animals. No animals or birds of any kind shall be raised, bred or kept in or on any Lot or in the Common Areas, except that domestic dogs and cats, and common household birds, may be kept in or on Lots, subject to rules and regulations adopted by the Board and provided that they are not kept, bred, or maintained for any commercial purpose and provided further that any such pet causing or creating a nuisance or disturbance shall be permanently removed from the Project upon ten (10) days written notice from the Association. Any pet allowed hereunder may be present on the Common Areas only if on a leash held by a person and if the Owner cleans up after the same.

6.11 No Short-Term Rentals or Leases. Owners may freely rent or lease their Lots provided that such rental or lease period shall not be less than twelve (12) months in duration, and that a signed agreement is delivered to the Association stating that the renters have read this Declaration and will abide by the same.

ARTICLE VII THE ASSOCIATION; BYLAWS

7.1 Membership and Bylaws. Notwithstanding any other provision hereof to the contrary, as long as Declarant owns any interest in any of the Lots, Declarant shall be the sole Member of the Association. As soon as Declarant has conveyed title to all of the Lots and all interests therein to others ("**Post-Declarant**"), each Owner shall be entitled and required to be a Member of the Association and shall automatically achieve such status upon becoming an Owner. Membership in the Association shall terminate as to each Owner automatically upon such Owner ceasing to own any interest in any of the Lots. If title to a Lot is held by more than one person, the membership appurtenant to that Lot shall be shared by all such persons in the same proportionate interests and by the same type of tenancy in which title to the Lot is held.

7.2 Ownership Post-Declarant. Post-Declarant: an Owner shall be entitled to one membership for each Lot owned by said Owner; each Lot shall have one vote appurtenant thereto, regardless of the number of Owners thereof; each membership shall be appurtenant to the Lot to which it relates and shall be transferred automatically by conveyance of that Lot; Ownership of a Lot within the Project cannot be separated from membership in the Association appurtenant thereto, and any devise, encumbrance, conveyance, or other disposition of a Lot shall be construed to be a devise, encumbrance, conveyance or other disposition, respectively, of the Owner's membership in the Association, and the rights appurtenant thereto; no person or entity other than an Owner may be a member of the Association; and membership in the

Association may not be transferred except in connection with the transfer of a Lot.

7.2 Board of Directors. As long as Declarant owns any interest in any of the Lots, Declarant shall be the sole Director. Post-Declarant, the Board of Directors shall initially consist of three (3) members which can be increased up to as many as five (5) members upon the majority vote of the existing Board of Directors or the majority vote of the Owners at a duly called meeting of the Owners.

7.3 Amplification. The provisions of this Article may be amplified by the Articles of Incorporation and separately adopted Bylaws of the Association; provided, however, that no such amplification shall substantially alter or amend any of the rights or obligations of the Owners set forth in this Declaration.

ARTICLE VIII CERTAIN RIGHTS AND OBLIGATIONS OF THE ASSOCIATION

8.1 The Common Areas. The Association shall be responsible, as described herein, and subject to the rights and duties of the Owners as set forth in this Declaration, for the exclusive management and control of the Common Areas and all improvements thereon. In particular, the Association shall be responsible for the maintenance of the private roads and associated improvements located in the Project. The Association shall also be responsible for maintenance, repair, and replacement of all improvements or other materials located upon or used in connection with the Common Areas. The specification of duties of the Association with respect to particular Common Areas shall not be construed to limit its duties with respect to other Common Areas, as set forth in the first sentence of this Section. All goods and services procured Association in performing its responsibilities under this Section shall be paid for with funds from the Common Expense Fund. The Project is a gated community. The Project gate shall be left open during daylight hours and closed at night; provided that the gate shall be left open for construction as needed by Declarant.

8.2 Manager. The Association may by written contract delegate in whole or in part to a professional Manager such of the Association's duties, responsibilities, functions, and powers hereunder as are properly delegable. The services of any Manager retained by the Association shall be paid for with funds from the Common Expense Fund.

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

8.4 Real and Personal Property. The Association may acquire, hold and own real,

personal, and mixed property of all types for the use or benefit of all of the Owners and may dispose of such property by sale or otherwise. All of the Common Areas shall be deeded by Declarant to the Association. The maintenance, repair and replacement of all such property shall be paid for out of the Common Expense Fund and all proceeds from the disposition thereof shall become part of such Fund.

8.5 Rules and Regulations. The Association, by action of the Board, may make reasonable rules and regulations governing the use of the Lots and of the Common Areas, which rules and regulations shall be consistent with the rights and duties established in this Declaration. The Association may take judicial action against any Owner to enforce compliance with such rules and regulations or other obligations of Owners arising hereunder, or to obtain damages for noncompliance therewith, as permitted by law. In the event of such judicial action, the Association shall be entitled to recover its costs, including reasonable attorney's fees, from the offending Owner.

8.6 Granting of Easements. The Association may, without the vote or consent of the Owners or of any other person, grant or create, on such terms as it deems advisable, utility, ingress, egress, construction and similar easements over, under, across, and through the Common Areas.

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

8.8 Reserves; Maintenance. The Association shall maintain an adequate reserve fund for maintenance, repairs and replacement of those Common Areas that must be replaced on a periodic basis, and such reserves shall be funded from the monthly assessments described in **Article IX** below.

ARTICLE IX ASSESSMENTS

9.1 Agreement to Pay Assessments. Post-Declarant, each Owner of a Lot by the acceptance of instruments of conveyance and transfer therefor, whether or not it be so expressed in said instruments, shall be deemed to covenant and agree with each other and with the Association, to pay to the Association all assessments, both regular and special, made by the Association for the purposes provided in this Declaration. Such assessments shall be fixed, established and collected from time to time as provided in this Article. Notwithstanding any other provision hereof, Declarant shall not be subject to any assessments.

9.2 Regular Assessments. Post-Declarant, regular assessments shall be computed and assessed against all Lots in the Project as follows:

(a) **Common Expenses.**

(i) **Annual Budget.** On or before the 1st day of December of each year, the Association shall prepare, or cause to be prepared, an operating budget setting forth an itemized statement of the anticipated receipts and disbursements for the coming calendar year

and taking into account the general condition of the Project. Each such budget, together with a written statement from the Association outlining a plan of operation for the year in question and justifying in every important particular the estimates made, shall be submitted to the Members on or before the 15th day of December of each year. Such budget, with any changes therein, shall be adopted by the Members at each annual meeting of the Members. Said operating budget shall serve as the basis for the schedule of proposed monthly assessments for the annual period for which it is prepared. Said budget shall also constitute a major guideline under which the Association shall operate during such annual period.

(ii) **Basis of Annual Budget.** The annual budget shall be based upon the Association's estimates of the cash required to provide for payment of expenses (the "**Common Expenses**") arising out of or connected with maintenance and operation of the Common Areas and the Maintained Areas. Such actual expenses and estimated expenses may include, among other things, the following: expenses of management; governmental taxes and special assessments; premiums for all insurance that the Association is required or permitted to maintain; repairs and maintenance; wages for Association employees, including fees for a Manager, if any; utility charges; legal and accounting fees; any deficit remaining from a previous period; creation of a reasonable contingency reserve; sinking or reserve funds required or allowed herein; and any other expenses and liabilities which may be incurred by the Association for the benefit of all of the Owners or by reason of this Declaration or the Code.

(iii) **Annual Assessments.** The Association shall establish a regular, equal monthly assessment to be paid by each Owner (the "**Common Expense Fund**"). The dates and manner of payment shall be determined by the Association. The foregoing method of assessing the Common Expenses to the Owners may be altered by the Association so long as the method it adopts is consistent with good accounting practice and requires that the portion of Common Expenses borne by each Owner be equal. Each monthly installment of the regular assessment shall bear interest at the rate of one and one-half percent (1-1/2%) per month from the date it becomes due and payable until paid. Failure of the Association to give timely notice of any assessment as provided herein shall not affect the liability of the Owner of any Lot for such assessment.

(b) **Inadequate Funds.** In the event that the Common Expense Fund proves inadequate at any time for whatever reason, including nonpayment of any Owner's assessment, the Association may levy additional assessments in accordance with the procedure set forth in Section 9.3 below, except that the vote therein specified shall not be necessary.

9.3 Special Assessments. Post-Declarant, in addition to the regular assessments authorized herein, the Association may levy, at any time and from time to time, upon affirmative vote of at least fifty-one percent (51%) of the Total Votes of the Association, special assessments, payable over such periods of time as the Association may determine, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of the Common Areas or any part thereof, or for any other expenses incurred or to be incurred as provided in this Declaration. This Section shall not be construed as an independent source of authority for the Association to incur expenses, but shall be construed to prescribe the manner of assessing for expenses authorized by other Sections or Articles hereof. Any amounts assessed pursuant hereto shall be apportioned equally among and assessed equally to all Owners. Notice in writing of the amount of such special assessments and

the time for payment thereof shall be given promptly to the Owners. No payment shall be due less than thirty (30) days after such notice shall have been mailed. All unpaid portions of any special assessment shall bear interest at the rate of one and one-half percent (1-1/2%) per month from the date such portions become due until paid.

9.4 Lien for Assessments. All sums assessed to the Owner of any Lot pursuant to the provisions of this Article, together with interest thereon as provided herein, shall be secured by a lien on such Lot in favor of the Association. To evidence a lien for sums assessed pursuant to this Article, the Association may prepare a written notice of lien setting forth the amount of the Assessment, the date due, the amount remaining unpaid, the name of the Owner of the Lot, and a description of the Lot. Such notice shall be signed and acknowledged by a duly authorized officer of the Association and may be recorded in the office of the Salt Lake County Recorder. No notice of lien shall be recorded until there is a delinquency in payment of the assessment. Such lien may be enforced by judicial foreclosure by the Association in the same manner in which mortgages on real property may be foreclosed in the State of Utah. In any such foreclosure, the Owner shall be required to pay the costs and expenses of such proceeding, including reasonable attorneys' fees, and such costs and expenses shall be secured by the lien being foreclosed. The Owner shall also be required to pay to the Association any assessments against the Lot which shall become due during the period of foreclosure. The Association shall have the right and power to bid in at any foreclosure sale, and to own, lease, mortgage or convey the subject Lot.

9.5 Personal Obligation of Owner. The amount of any regular or special Assessment against any Lot shall be the personal obligation of the Owner of such Lot to the Association. Suit to recover a money judgment for such personal obligation shall be maintainable by the Association without foreclosing or waiving the lien securing the same. No Owner may avoid or diminish any such personal obligation by waiver of the use and enjoyment of any of the Common Areas or by abandonment of his Lot, or by waiving any services or amenities. In the event of any suit to recover a money judgment for unpaid assessments hereunder, the involved Owner shall pay the costs and expenses incurred by the Association in connection therewith, including reasonable attorney's fees.

9.6 Statement of Account. Upon written request of any Owner, Mortgagee, prospective Mortgagee, or prospective purchaser of a Lot and payment of any reasonable fee assessed, the Association shall issue a written statement setting forth the following: (a) the amount of the unpaid assessments, if any, with respect to such Lot, and (b) the amount of the current regular assessment with respect to such Lot and the date such assessment becomes or became due. Such statement shall be conclusive upon the Association in favor of persons who rely thereon in good faith.

9.7 Personal Liability of a Purchaser. A purchaser of a Lot shall be jointly and severally liable with the seller thereof for all unpaid assessments against such Lot up to the time of the grant of conveyance; provided, however, that the provisions of this Section shall not prejudice the purchaser's right to recovery from the seller of the amount of such assessments paid by the purchaser for such assessments.

9.8 Assessments Part of Common Expense Fund. All funds received from assessments under this Article shall be a part of the Common Expense Fund.

ARTICLE X INSURANCE

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

(a) **Fire and Casualty Insurance.** A policy or policies of insurance on the Common Areas of the Project in such amounts as shall provide for replacement thereof in the event of damage or destruction from casualty against which such insurance is customarily maintained by other projects similar in construction, design, and use. Such insurance shall include fire and extended coverage, vandalism and malicious mischief, and such other risks and hazards against which the Association shall deem it appropriate to provide insurance protection as to the Common Areas. The Association may comply with the above requirements by the purchase of blanket coverage and may elect such "deductible" provisions as in the Association's opinion are consistent with good business practice.

(b) **Public Liability and Property Damage Insurance.** The Association shall obtain a broad form of comprehensive liability insurance coverage for the Project, in such amounts and in such forms as it deems advisable to provide adequate protection against liability for personal injury, death and property damage. Coverage shall include without limitation, liability for operation of automobiles on behalf of the Association and all activities in connection with the ownership, operation, maintenance, and other use of the Project.

(c) **Workers' Compensation Insurance.** Workers' compensation and employer's liability insurance and all other similar insurance with respect to employees of the Association, if any, in the amounts and in the forms now or hereafter required by law.

(d) **Fidelity Insurance or Bond.** Fidelity insurance or a bond in such amounts and in such forms as the Association deems appropriate to cover against dishonesty of employees or the Manager, destruction or disappearance of money or securities, and forgery.

10.2 Form of Insurance. Insurance coverage on the Project, insofar as possible, shall be in the following form:

(a) **Casualty and Flood Hazard Insurance.** Casualty and hazard insurance in a form or forms naming the Association as the insured, as trustee for the Owners and for Declarant, whether or not Declarant is an Owner, and which policy or policies shall specify the interest of each Owner (Owner's name and Lot number), and shall contain a standard, noncontributory mortgagee clause in favor of each Mortgagee which from time to time shall give notice to the Association of its Mortgage. The Association shall furnish to each Owner, and to each Mortgagee requesting in writing the same, a certificate of coverage, including an identification of the Owner's interest.

(b) **Public Liability and Property Damage Insurance.** Public liability and property damage insurance which names the Association as the insured, as trustee for each Owner, for the Manager, if any, and for Declarant, whether or not Declarant is an Owner, and which protects each Owner, the Manager, if any, and Declarant against liability for acts or omissions of any of them in connection with the ownership, operation, maintenance, or other use

of the Project.

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

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

10.5 Insurance Carried By Owners. Each Owner is responsible for and may obtain insurance, at his own election and expense, providing coverage upon his Lot, and all improvements and personal property located thereon, and for general liability coverage, including without limitation, coverage for personal injury, property damage, and such other risks as each Owner may deem appropriate; provided that if the insurer under said policy is the insurer under any policy issued pursuant to **Section 10.1** through **10.3** above, then any insurance policy obtained by an Owner shall provide that it does not diminish the insurance carrier's coverage for liability arising under any of the insurance policies obtained by the Association pursuant to this Article. The Association shall have no obligation or responsibility to carry insurance on the Lots, or any improvements located on the Lots.

10.6 Review of Insurance. The Association shall review annually the coverage and policy limits of all insurance on the Project and shall adjust the same at its discretion. Such annual review may include an appraisal of the improvements in the Project by a representative of the insurance carrier or carriers providing the policy or policies on the Project, or such other qualified appraisers as the Association may select.

ARTICLE XI DAMAGE OR DESTRUCTION

11.1 Association as Attorney in Fact. All of the Owners irrevocably constitute and appoint the Association their true and lawful attorney in fact in their name, place and stead for the purpose of dealing with the Common Areas of the Project upon their damage or destruction as hereinafter provided. Acceptance by any grantee of a deed from Declarant or any Owner shall constitute an appointment by said grantee of the Association as his attorney in fact as herein provided. As attorney in fact, the Association shall have full and complete authorization, right, and power to make, execute, and deliver any contract, deed or other instrument with respect to the interest of an Owner in the Common Areas which may be necessary or appropriate to execute the powers herein granted.

11.2 Total Destruction. If damage or destruction occurs in or to the Project that is so extensive that every Owner of every Lot in the Project votes to not rebuild, repair or reconstruct the Common Areas damaged or destroyed, then in such event and upon written agreement of every Owner, this Declaration shall be terminated, and each Owner shall own his Lot, and all Owners together shall own all Common Areas as tenants in common, and there shall be no obligation to repair or reconstruct the damaged portions of the Common Areas. Upon the

dissolution of the Project as herein provided, a notice of such shall be filed with the Salt Lake County Recorder, and upon filing of such notice, the following shall occur:

(a) The Common Areas shall be deemed to be owned in common by the Owners as tenants in common on an equal, undivided basis;

(b) Any liens affecting any of the Lots shall remain a lien against such Lots, but also shall be deemed to be transferred, in accordance with the existing priorities, to the undivided interest of the respective Owner in the Common Areas;

(c) If a majority of the Total Votes so elects within ninety (90) days after the damage has occurred, and if allowed by the applicable governmental authorities, the Common Areas shall be dedicated as public roads in accordance with applicable statutes and ordinances, and all Owners shall join in such dedication; and

(d) If the option described in clause (c) above is not elected, the Common Areas shall be subject to an action for partition at the suit of any Owner, in which event the net proceeds of any sale resulting from such suit for partition, together with the net proceeds of the insurance on the Project, if any, shall be considered as one fund and shall be divided equally among all of the Owners, after first paying out of the respective share of each Owner, to the extent sufficient for such purpose, all liens on the undivided interest in the Project owned by such Owner.

11.3 Partial Destruction. As long as any one Owner of any Lot so elects, upon the damage or destruction of any portion of the Common Areas, the Association shall proceed to repair and reconstruct the Common Areas. The Association shall use insurance proceeds from the insurance it is obligated to carry to accomplish such repair and reconstruction. In the event insurance proceeds are insufficient to accomplish the repair and reconstruction as required herein, then the Association shall levy a special assessment against all Owners pursuant to the provisions of **Article IX** above to collect funds necessary to accomplish such repairs and reconstruction.

11.4 Repair or Reconstruction. As soon as practicable after receiving estimates on the cost of repair or reconstruction, the Association shall, if repair or restoration is to occur, diligently pursue to completion the repair or reconstruction of that part of the Common Areas damaged or destroyed. The Association may take all necessary or appropriate action to effect repair or reconstruction, as attorney in fact for the Owners, and no consent or other action by any Owner shall be necessary in connection therewith.

11.5 Disbursement of Funds for Repair or Reconstruction. If repair or reconstruction is to occur, then the insurance proceeds held by the Association and any amounts received from assessments shall constitute a fund for the payment of the costs of such repair and reconstruction. It shall be deemed that the first monies disbursed in payment for the costs of such repair or reconstruction shall be made from insurance proceeds; if there is a balance after payment of all of the costs of such repair or reconstruction, such balance shall be distributed equally to the Owners.

ARTICLE XII

CONDEMNATION

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

12.2 Proceeds. All compensation, damages, and other proceeds from any such taking by power of eminent domain shall be allocated among and distributed to the Owners in proportion to their respective undivided interests in the Common Areas. Such distribution shall be made by check payable jointly to the respective Owners and their respective Mortgagees, as appropriate.

ARTICLE XIII COMPLIANCE WITH DECLARATION AND BYLAWS

13.1 Compliance. Each Owner shall comply with the provisions of this Declaration, the Articles and Bylaws, rules and regulations promulgated by the Association, and the decisions and resolutions of the Association adopted pursuant thereto, as the same may be lawfully amended from time to time. Failure to comply with any of the same shall be grounds for an action to recover sums due and for damages or injunctive relief or both, maintainable by the Association or by an aggrieved Owner.

13.2 Enforcement and Remedies. The obligations, provisions, covenants, restrictions and conditions contained in this Declaration, or in any supplemental or amended Declaration, enforceable against the Association, shall be enforceable by Declarant or by any Owner of a Lot, by a proceeding for a prohibitive or mandatory injunction. The obligations, provisions, covenants, restrictions and conditions contained in this Declaration, or in any supplemental or amended Declaration, enforceable against an Owner or any other person, shall be enforceable by Declarant or the Association by a proceeding for a prohibitive or mandatory injunction or by a suit or action to recover damages or to recover any amount due or unpaid.

ARTICLE XIV DECLARANT'S SALES PROGRAM

14.1 Declarant's Right to Promote and Sell the Project. Notwithstanding any other provisions of this Declaration, until Declarant ceases to be an Owner (hereinafter referred to as the "**Occurrence**"), Declarant, its successors or assigns shall have the following rights in furtherance of any sales, promotional or other activities designed to accomplish or facilitate the sale of Lots owned by Declarant:

(a) **Sales Offices and Model Lots.** Declarant, its successors and assigns, shall have the right to maintain sales offices and model homes on Lots. Sales offices may be located on any Lot (at any location) owned by Declarant or may be located on any of the Common Areas of the Project. Declarant shall have the right to maintain any number of model homes it may desire using the Lots Declarant owns.

(b) **Promotional Devices.** Declarant, its successors and assigns, shall have the right to maintain such promotional, advertising and/or directional signs, banners and similar

devices at any place or places on the Common Areas or Lots owned by Declarant, as Declarant may desire.

(c) **Right to Use the Common Areas.** Declarant shall have the right to use the Common Areas of the Project to entertain prospective purchasers or to otherwise facilitate Lot sales, as Declarant may desire.

14.2 Declarant's Rights to Relocate Sales and Promotional Activities. Declarant shall have the right from time to time to locate or relocate its sales offices, model homes and signs, banners and similar devices, as Declarant may desire. Within a reasonable period of time after the happening of the Occurrence, Declarant shall have the right to remove from the Project any sales structures, fixtures, improvements, signs, banners and similar sales materials and properties.

ARTICLE XV MORTGAGEE PROTECTION

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

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

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

15.4 Mortgage Holder Rights in Event of Foreclosure. Any Mortgagee of a Mortgage of record which obtains title to a Lot by the foreclosure of the Mortgage on the Lot or by deed or assignment in lieu of foreclosure, or any purchaser at a foreclosure sale, shall take the Lot free of any claims for unpaid assessments and charges against the Lot which accrued prior to the date of the acquisition of title to such Lot by such acquirer. Any unpaid assessments shall be deemed to be Common Expenses collectible from all of the Lots in the Project, including the Lot that has been acquired in accordance with the provisions of this Section.

15.5 Amendment. No provision of this Article shall be amended without the prior written consent of at least two-thirds of all first Mortgagees as appear on the official records of Salt Lake County, Utah, as of the date of such amendment.

ARTICLE XVI GENERAL PROVISIONS

16.1 Intent and Purpose. The provisions of this Declaration and any supplemental or amended Declaration shall be liberally construed to effectuate the purpose of creating a uniform plan for the development and operation of a planned Lot development project. Failure to enforce any provision, restriction, covenant, or condition in this Declaration, or in any supplemental or amended Declaration, shall not operate as a waiver of any such provision, restriction, covenant, or condition or of any other provisions, restrictions, covenants, or conditions.

16.2 Construction. The provisions of this Declaration shall be in addition and supplemental to all applicable provisions of law. Wherever used herein, unless the context shall otherwise provide, the singular number shall include the plural, the plural shall include the singular, and the use of any gender shall include all genders. The Article and Section headings set forth herein are for convenience and reference only and are not intended to describe, interpret, define or otherwise affect the context, meaning, or intent of this Declaration or any Article, section or provision hereof. The provisions hereof shall be deemed independent and severable and the invalidity or partial invalidity or unenforceability of any one provision or portion thereof shall not affect the validity or enforceability of any other provision hereof.

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

16.4 Audit. Any Owner may at any reasonable time, upon appointment and at his own expense, cause an audit or inspection to be made of the books and records maintained by the Association.

16.5 Amendment. Post-Declarant, and except as otherwise provided herein, this Declaration may be amended if Owners holding at least fifty-one percent (51%) of the Total Votes of the Association consent and agree to such amendment at a meeting of the Owners duly held in accordance with the provisions of the Articles, Bylaws, and this Declaration, which properly approved amendments shall be evidenced by instruments which are duly recorded in the office of the County Recorder for Salt Lake County, State of Utah.

16.6 Effective Date. This Declaration shall take effect upon recording.

16.7 Agent for Service. The person to receive service of process for the Association shall be the then current registered agent of the Association as shown on the records maintained in the of Office of the Division of Corporations and Commercial Code of the State of Utah.

16.8 Limitation on Association's Liability. Owners may not sue Officers or Directors

except for intentional wrongful acts or gross negligence. Owners attempting such action shall be obligated to pay all of the costs for both parties, including reasonable attorneys' fees, if the owner loses the law suit. The Association shall not be liable for any failure of water service or other utility service to be obtained and paid for by the Association hereunder, or for injury or damage to any person or property caused by the elements or by another Owner or person in the Project, or resulting from electricity, water, rain, snow or ice. No diminution or abatement of any assessments under this Declaration shall be claimed or allowed for inconvenience or discomfort arising from the making of repairs, maintenance or improvements to the Project or any part thereof, or from any action taken to comply with any law, ordinance or order of a governmental authority.

16.9 Owner's Obligations. All obligations of an Owner under and by virtue of the provisions contained in this Declaration shall continue, notwithstanding that he may be leasing, renting, or selling on contract his Lot. The Owner of a Lot shall have no obligation for expenses or other obligations accruing after he conveys title to such Lot.

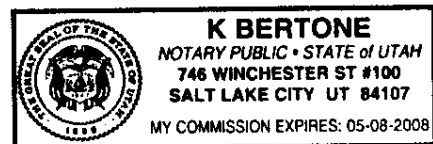
IN WITNESS WHEREOF, the undersigned Declarant has executed this Declaration to be effective

DECLARANT:

PORTICO REAL ESTATE DEVELOPMENT CORPORATION, a Utah corporation

By: 
Kirk Nielsen, Its President

STATE OF UTAH;
COUNTY OF SALT LAKE:



On 4/29/05, personally appeared before me Kirk Nielsen, who being by me first duly sworn, did say that he signed the written instrument in the capacity indicated.

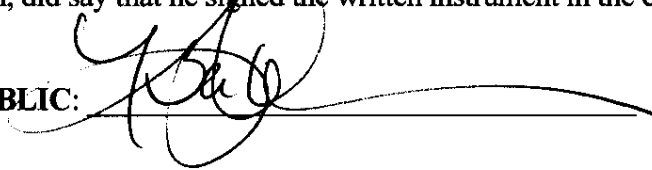
NOTARY PUBLIC: 

EXHIBIT A

LEGAL DESCRIPTION

Holladay Oaks PUD

All of Holladay Oaks, Planned Unit Development., as identified in the Plat of said Development, recorded in Salt Lake County, Utah, as Entry No. 9136592, in Book 9021, at Page 8071. TOGETHER WITH a right and easement of use and enjoyment in and to the Common Areas which include, without limitation, an easement for vehicular ingress and egress over and across said Common Areas to and from said Lot.

Said Holladay Oaks being situated on a parcel of land more particularly described as:

Beginning at a point South 10°25'00" West to a brass cap monument at the intersection of 4500 South Street and Holladay Boulevard 251.10 feet and West along the monument line of 4500 South Street 433.18 feet from the East Quarter Corner of Section 4, Township 2 South, Range 1 East, Salt Lake Base and Meridian and running thence South 142.30 feet; thence West 5.00 feet; thence South 102.30 feet; thence North 89°00'00" East 100.00 feet; thence South 40.00 feet; thence South 89°00'00" West 405.05 feet; thence North 12.60 feet; thence South 89°00'00" West 169.03 feet; thence North 31°00'36" West 126.92 feet; thence East 106.46 feet; thence North 89°25'03" East 130.68 feet; thence North 0°17'14" West 5.80 feet; thence North 89°47'25" East 35.26 feet; thence North 50.44 feet; thence East 2.53 feet; thence North 54.00 feet; thence West 3.93 feet; thence North 56.05 feet; thence East 168.95 feet; thence North 3.75 feet; thence East 104.47 feet to the point of beginning.

The following is shown for information purposes only: Tax ID No.'s: 22-04-429-023, through and including 22-04-429-034

EXHIBIT "B"
 HOLLADAY OAKS - PUD
 Fencing and Parking

