

When recorded return to:

DECLARATION
OF
COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR
_____ CONDOMINIUMS

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DECLARATION
OF
COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR
_____ CONDOMINIUMS

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR _____
_____ CONDOMINIUMS (“**Declaration**”) is made by _____
_____ (the “**Declarant**”).

RECITALS

- A. This Declaration shall be recorded against that certain real property located in Weber County, Utah more particularly described under Exhibit “A”, which is attached hereto and incorporated herein by this reference (the “**Property**”).
- B. Declarant is the owner of the Property.
- C. On _____, 20____, Declarant recorded that certain plat map entitled “_____,” which was recorded in the Weber County Recorder’s Office on _____, 20__ in Book ____ beginning at Page ____ as Entry No. _____ (the “**Plat Map**”).
- D. Declarant has constructed or intends to construct upon the Property a residential condominium project which will include Buildings, Units, Common Area, Common Improvements, and other improvements as more particularly described in this Declaration. All such construction has been or will be performed in accordance with the Plat Map.
- E. Declarant intends to sell fee title to the individual Units contained on the Property, together with an appurtenant undivided ownership interest in the Common Area and a corresponding membership in the Association, subject to the Plat Map, and also subject to the rules, regulations, covenants, conditions, and restrictions set forth in the Governing Documents, as that term is defined below.
- F. By recording this Declaration in the Recorder’s Office, Declarant desires and hereby submits the Property, and all improvements now or hereafter constructed thereon, to the provisions of this Declaration and the provisions of the Utah Condominium Ownership Act (Utah Code Section 57-8-1 *et. seq.*) (the “**Condominium Act**”).

DECLARATION

It is acknowledged and agreed, by acceptance of a conveyance, contract for sale, lease, rental agreement, or any form of security agreement or instrument, or any privileges of use or enjoyment regarding any portion of the Project, that the Governing Documents are intended to impose covenants, conditions, restrictions, and reservations effecting a common plan for a condominium development that is mutually beneficial to all of the described condominium units,

and that any and all rules, regulations, covenants, conditions, restrictions, reservations and common plans set forth under the Governing Documents are binding upon the entire Project and upon each Unit as a parcel of realty, and upon such Unit's owners or possessors, and their respective heirs, personal representatives, successors and assigns, through all successive transfers of all or part of the Unit or any security interests therein without requirement of further specific reference or inclusion in deeds, contracts or security instruments, and regardless of any subsequent forfeiture, foreclosures, or the sale of such Unit under any security instruments or similar documents.

NOW, THEREFORE, for the reasons recited above and subject to the covenants, conditions and restrictions set forth below, Declarant hereby makes the following Declaration:

ARTICLE 1 - DEFINITIONS

The following capitalized terms when used in this Declaration and the other Governing Documents shall have the following meanings:

1.1 “**Act**” or “**Acts**” individually or collectively means and refers to the Utah Condominium Ownership Act (Utah Code Section 57-8-1 *et. seq.*) and/or the Utah Revised Nonprofit Corporation Act (Utah Code Section 16-6a *et seq.*) as such Act(s) may be amended or supplemented from time to time.

1.2 “**Additional Charges**” shall mean and refer cumulatively to all collection and administrative costs, including but not limited to attorney's fees, late charges, accruing interest, service fees, filing and recordation fees, and other expenditures incurred or charged by the Association.

1.3 “**Articles**” or “**Articles of Incorporation**” shall mean and refer to the Articles of Incorporation of the Association that have been filed with the State of Utah, as such Articles may be amended from time to time.

1.4 “**Assessment**” means any charge imposed or levied by the Association on or against Owners and/or Units pursuant to the provisions of the Governing Documents or any applicable law. The term “**Assessments**” includes Annual Assessments, which are imposed against all Owners and/or Units, and also includes Special Assessments which may be imposed against all or less than all Owners and/or Units as more particularly described in this Declaration.

1.5 “**Association**” means and refers to “_____”, or any other entity as the Association may be known and identified according to the records of the State of Utah business entity records.

1.6 “**Board**” or “**Board of Directors**” shall mean and refer to the Board of Directors of the Association vested with the authority to administer and manage the Project, and to maintain and enforce the Governing Documents. The term Management Committee as used in the Condominium Act is synonymous and interchangeable with the term “**Board**” or “**Board of Directors**” as those terms may be used in the Governing Documents or the Acts. The terms “**member of the Board**,” “**Board member**” and “**Director**” are also synonymous.

1.7 “**Bylaws**” means the Bylaws of the Association, as they may be amended from time to time and which are attached hereto and incorporated herein by this reference as Exhibit “B”.

1.8 “**Building(s)**” means, refers to and includes each building containing Units. The area on which Buildings are located within the Project are depicted on the Plat Map as “**BUILDING FOOTPRINTS.**”

1.9 “**Common Area**” means any portion of the Project that is not identified on the Plat Map as “**PRIVATE OWNERSHIP,**” “**BUILDING FOOTPRINTS**” or “**ROAD DEDICATION.**” Without in any way limiting the scope of the previous sentence, the Common Area of the Project includes those portions of the Project identified on the Plat Map as “**PRIVATE ROADS,**” as well as those portions of the Project depicted on the Plat Map as walkways/sidewalks and parking areas.

1.10 “**Common Expenses**” means and refers to:

- (a) Any sums lawfully assessed against the Owners;
- (b) Expenditures lawfully made or incurred by or on behalf of the Association for the administration, maintenance, repair, or replacement of the Common Areas and/or any Common Improvements;
- (c) Administrative costs and expenses incurred by the Board in creating, revising, interpreting or enforcing the Governing Documents;
- (d) Any sums which are required by the Board and/or the Manager to perform or exercise their functions, duties or rights under the Acts or the Governing Documents;
- (e) Expenses related to the operation, management and regulation of the Project;
- (f) Any other expenses lawfully and reasonably allocated by the Association among the Owners as determined by a majority vote of the Board members;
- (g) Any sums deemed by the Board as necessary to address any budget deficit(s) remaining from any previous fiscal year(s);
- (h) Any sums deemed by the Board as necessary to create and/or maintain an adequate Reserve Fund; and
- (i) Any other expenses that are identified or defined as Common Expenses under the Acts or the Governing Documents.

1.11 “**Common Expense Fund**” means and refers to that fund more particularly described under Section 7.3, which is to be used to cover basic expenses related to the administration, operation, maintenance, and management of the Association and Project including, without limitation, the Common Expenses and those expenses more particularly described under Subsection 4.3.1 of this Declaration.

1.12 “**Common Improvements**” means, refers to, and includes any facilities and improvements that have been or may be installed, constructed or attached on or to any portion of the Common Area.

Without limiting the generality of the foregoing, the term “Common Improvements” shall include:

(a) All utility infrastructure, installations and equipment connected with or in any way related to the furnishing of utilities to the Project and intended for the common use of all Owners or more than one Owner, such as telephone, electricity, gas, water, sewer, and any master antenna, cable or satellite TV equipment, system or component that is owned, installed or maintained by the Association and is available for use by all Owners or more than one Owner;

(b) Any outdoor lighting that has been installed and is maintained by the Association, as well as any fences, landscaping, sidewalks, pathways, tables, benches, entryway monumentation, and Private Roads located within the Project;

(c) In general, any and all apparatus, installations, improvements, structures, Buildings and facilities included within the Project that are intended and existing for the Owners’ common use or benefit including, for example and without limitation, the mailbox banks, maintenance/storage structures, or any recreational or landscaping features.

1.13 “**Declaration**” means and refers to this Declaration of Covenants, Conditions, and Restrictions for _____ Condominiums, as may be amended or supplemented from time to time.

1.14 “**Eligible Mortgagee**” means and refers to any Mortgagee, beneficiary under a trust deed, or lender who has requested written notice of certain matters from the Association in accordance with the Condominium Act or this Declaration.

1.15 “**Governing Documents**” means and refers to the Plat Map, the Articles of Incorporation, this Declaration, the Bylaws, and any Rules and Regulations of the Association as may be adopted, amended or supplemented from time to time.

1.16 “**Limited Common Area(s)**” means and refers to any portion of the Project that may be designated, described or identified in this Declaration and/or the Plat Map as being set aside or reserved for, or appurtenant or limited to, the use of one or more (but less than all) Units to the exclusion of any other Units. Limited Common Areas may consist of patios, decks, balconies, and certain designated parking spaces, provided such parking spaces been specifically identified, described and/or set aside or reserved for use by a certain Unit (or certain Units) pursuant to this Declaration, any Supplemental Declaration and/or the Plat Map. The term “Limited Common Area(s)” also refers to those portions of the Project described under Section 2.6.

1.17 “**Manager**” shall mean and refer to any person and/or entity that may be retained by the Association to operate, manage, maintain and/or repair the Project by, among other matters, enforcing the Governing Documents. The obligations, duties and authority of the Manager shall

be specified in a written agreement that has been adopted and signed by the Manager and by the Board on behalf of the Association. The term “Manager” shall not refer to any person and/or entity (i.e. property manager, rental management company, etc.) that may be retained by any individual Owner(s) to manage and/or rent that Owner’s Unit(s).

1.18 “**Majority of the Owners**” means more than Fifty Percent (50%) of the total Percentage Interest.

1.19 “**Member**” shall mean and refer to the Owner of a Unit (whether or not such Unit serves as the Owner’s primary residence). Each Member is entitled to participate in decisions made by the Association. Each Owner shall be a Member of the Association and shall be entitled to one membership for each Unit so owned. The term “Member” shall not refer to any tenant, guest or other non-Owner occupant of any Unit. The term “Member” and “Owner” shall generally be deemed as synonymous under the Governing Documents.

1.20 “**Mortgage**” means any mortgage or deed of trust encumbering any Unit and any other security interest existing by virtue of any other form of security instrument or arrangement, provided that an instrument evidencing any such mortgage, deed of trust or other form of security instrument or arrangement has been recorded with the Recorder's Office. The term “Mortgage” shall not mean or refer to an executory contract of sale.

1.21 “**Mortgagee**” means the person or entity secured by a Mortgage. The term “Mortgagee” shall not mean or refer to a seller under an executory contract of sale.

1.22 “**Owner**” shall mean and refer to the owner(s) of record of any Unit according to the Recorder’s Office. As used in this Declaration, the term “Owner” does not include a Mortgagee, a beneficiary or trustee under a deed of trust, or any other person or entity holding a security interest in a Unit unless and until such party has acquired title to the Unit pursuant to foreclosure or any arrangement or proceeding in lieu thereof. The term “Owner” and “Member” shall be deemed as synonymous under the Governing Documents.

1.23 “**Percentage Interest**” means and refers to the percentage of undivided ownership interest of each Owner in the Common Areas. The Percentage Interest of each Owner shall be calculated by dividing the number “1” by the total number of Units in the Project. The Project will include a total of XXX Units. Accordingly, the Percentage Interest allocated to each Unit (and held by the Owner(s) of each Unit) is

1.24 “**Period of Declarant Control**” means and refers to a period of time commencing on the date this Declaration is recorded and terminating upon the occurrence of the earliest of the following events:

- (a) 60 days after 100% of the Units have been conveyed to Owners other than the Declarant or any successor to, or assignee of, the Declarant; or
- (b) the date upon which Declarant, or its successor or assignee, has recorded an instrument voluntarily surrendering all rights to control the Association.

Termination of the Period of Declarant Control shall not result in any loss or waiver whatsoever of Declarant's rights incident to Declarant's ownership of any unbuilt and/or unsold Units. This definition of Period of Declarant Control is intended to be consistent with the "period of control" as described under described in Section 57-8-16.5 of the Condominium Act, as may be periodically amended.

1.25 **"Plat Map"** means any plat or plats of survey of land and condominium units prepared in accordance with Section 57-8-13 of the Condominium Act and recorded in the Recorder's Office, and any other plats that may be so prepared and recorded as a substitution to or amendment of such plat or plats of survey of land and condominium units.

1.26 **"Private Roads"** means and refers to any entryways and roadways identified on the Plat Map as "PRIVATE ROADS," including _____. The area upon which each Private Road is located is Common Area, while the pavement, curbs and gutters or similar improvements that comprise the Private Roads are Common Improvements. The Association is solely responsible for maintaining, repairing and replacing any and all Private Roads. The term Private Roads does not include any portion of the Project identified on the Plat Map as "ROAD DEDICATION."

1.27 **"Project"** means and includes all of the Property, including any and all Buildings, Units and Common Areas located on such real property, as well as all easements, rights, and appurtenances belonging thereto. The Project is to be commonly known as "_____".

1.28 **"Recorder's Office"** means the Recorder's Office of Weber County, State of Utah.

1.29 **"Reserve Fund"** means and refers to that certain fund more particularly identified and described under Section 7.5, which shall be used to cover the cost of repairing, replacing, and restoring Common Areas and/or Common Improvements that have a useful life of three (3) calendar years or more, but excluding any cost that can reasonably be funded from the Annual Budget (including the Common Expense Fund) or other funds of the Association. The Reserve Fund may also be used for other purposes as may be specified in this Declaration or the Condominium Act.

1.30 **"Rules and Regulations"** means and refers to those rules and regulations that may be adopted or amended by the Board from time to time in order to further govern the Owners' use and enjoyment of the Project.

1.31 **"Unit"** means and refers to any separate physical part of the Project that is intended for independent use and ownership by an Owner, consisting of any rooms and spaces located within a Building containing Units as more particularly identified, described or depicted in this Declaration and/or the Plat Map. Without limiting the generality of the foregoing, the term "Unit" shall include any garage that is attached to a Unit, and the boundaries of each Unit shall be determined as set forth under Section 2.3 of this Declaration. Each Unit includes an undivided interest in the Common Areas that are appurtenant to such Unit. Units may be more specifically depicted and defined on the Plat Map. Mechanical equipment and appurtenances

located within any one Unit or located outside of said Unit but designated and designed to serve only that specific Unit, such as appliances, intercom systems, electrical receptacles and outlets, air conditioning compressors and other air conditioning apparatus, fixtures and the like, shall be considered part of the Unit, as shall be all decorated interiors, and all surfaces of the following: interior structural walls, floors and ceilings, windows, and window frames, doors and door frames, consisting of, among other items and as appropriate, wallpaper, paint, trim, flooring, carpeting, tile and any other material constituting part of the finished surface or a wall, floor, or ceiling. All pipes, wires, conduits or other public utility lines or installations constituting part of the Unit and serving only that Unit (including any portion of any such pipes, wires, conduits that may extend through, into or beyond any Common Area), including, for example and without limitation, any outdoor water spigots connected to and metered by that Unit's culinary water system, shall be considered part of the Unit. Any structural features or any other property of any kind, including fixtures and appliances located within such Unit which are removable without jeopardizing the soundness, safety, or usefulness of the remainder of the Building within which the Unit is situated, shall also be considered part of the Unit.

ARTICLE 2 – DESCRIPTION OF PROJECT

2.1 Description of Land

The legal description of the initial land on which the Project is located is set forth in Exhibit "A" which is attached hereto.

2.2 Buildings and Improvements

The Project is intended to consist of _____ () Buildings that contain Units, with each Building containing either three, four or five Units. Each Building is a wood frame structure with concrete foundation and lathwork, exterior walls of various materials over interior studding and sheeting, asphalt shingle roofs, and windows. The interior partitions between Units will consist of double stud walls divided by soundboard and faced with gypsum sheetrock. The interior floors will be constructed of concrete or plywood construction covered by carpet, luxury vinyl planks, or sheet vinyl. Each Building will be supplied with electricity, natural gas, water, and sewer service. Other improvements that may comprise the Project are more fully depicted or described in the Plat Map. The Plat Map identifies, describes and locates the Buildings, Units and certain Common Area (including certain Limited Common Area) that is or will be included within the Project.

2.3 Unit Location and Description

As of the date that this Declaration has been executed by the Declarant, the Project is intended to include a total of _____ () Units. Each Unit is to be depicted in the Plat Maps and identified by a specific numeral designation. All Units shall be capable of being independently owned, encumbered, and conveyed. Each Unit shall include that portion of the Building containing the Unit with the boundaries of the Unit determined in the following manner:

- a. The upper boundary of the Unit shall be the plane of the lower surface of the uppermost ceiling.
- b. The lower boundary of the Unit shall be the plane of the upper surface of the lowermost floor; and
- c. The vertical boundaries of the Unit shall be the interior surface of the perimeter walls of the Building bounding a Unit.

2.4 Access to Common Area Walkways

Each Unit has direct and perpetual access to the Common Area sidewalks and walkways.

2.5 Common Areas

Except as otherwise provided in this Declaration, the Common Areas shall consist of those areas, facilities and improvements of the Project that are described under Section 1.10 of this Declaration, and as described and depicted on the Plat Map. Such Common Areas generally constitute all parts of the Project except the Units. Without limiting the generality of the foregoing, the Common Areas shall include the following, whether located within the boundaries of a Unit or not:

- (a) All structural parts of those Buildings containing Units, including, without limitation, foundations, perimeter and bearing walls, joists, beams, supports, and roofs;
- (b) All additions or improvements to the structural parts of those Buildings containing Units;
- (c) Any parking spaces or parking areas including those that may be deemed Limited Common Areas;
- (d) Entryways, landscaped and planted areas, and any Private Roads or private thoroughfares that may be located within the Project;
- (e) Any utility pipe, line, system or other infrastructure servicing more than a single Unit, and all ducts, wires, conduits and other accessories used therewith;
- (f) All other parts of the Project necessary or convenient to its existence, maintenance and safety, or normally in common use, or which have been designated by the Association as Common Areas; and
- (g) All repairs, refurbishments or replacements of any of the foregoing.

Common Areas of the Project shall also include any Limited Common Areas. However, as more particularly set forth in the Governing Documents, the manner in which Limited Common Areas are owned, used, controlled, maintained, repaired and replaced may differ from the manner in which Common Areas are owned, used, controlled, maintained, repaired and replaced.

2.6 Limited Common Areas

The Limited Common Areas are those areas of the Project that are appurtenant to, or are set aside or reserved for use by, one or more Units to the exclusion of any other Units. Such Limited Common Areas are as follows:

2.6.1 Any balcony, deck or patio area which is directly attached to and/or accessed from a particular Unit or Units shall be the Limited Common Area of such Unit(s). The boundaries of any such balcony, deck or patio area shall be defined by the surfaces of the any walls, floor, ceiling, doors, windows, ground, railings or fences enclosing or surrounding said balcony, deck or patio areas. With regard to any ground-level patio areas that are not enclosed or surrounded by railings or fences, the boundaries of such ground-level patio areas shall be determined by the edge of the paved area of the patio. Such paved areas may not be enlarged or extended beyond the original size of the ground-level patio as designed or constructed by the Declarant, or as depicted on the Plat Map.

2.6.2 As used in this Section 2.6, the term “surfaces” shall mean decorative finishes, stucco, drywall paper or any other similar material applied to or covering the surfaces of walls, ceilings, ground or floor (including, for example, paint, wall paper, paneling, carpeting and tiles). Any such decorative finishes, coverings or similar materials shall be deemed a part of said Limited Common Area.

2.6.3 In the event of any dispute regarding the boundaries of any balcony, deck, or patio, the Board shall have the authority to resolve such dispute and determine such boundaries by reasonably applying and interpreting the descriptions and definitions of such areas of the Project as set forth in this Declaration.

2.7 Percentage of Undivided Interest in Common Areas

The Percentage of Undivided Interest in Common Areas for each Unit shall be equal to that Unit’s Percentage Interest as set forth under Section 1.23.

2.8 Title to Common Areas

Each Owner shall be entitled to a percentage of undivided ownership interest in and to the Common Areas, free and clear of all liens (other than current years taxes, if any).

ARTICLE 3 - OWNERS' ASSOCIATION

3.1 Form of Association

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

3.2 Membership

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

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

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

3.3 Voting

3.3.1 Voting Rights. The total collective voting power of the Owners shall be equal to the total number of Units in the Project that (a) have been completed as solely evidenced by the issuance of a Certificate of Occupancy by Weber County or South Ogden; and (b) have been made subject to the terms and conditions of this Declaration. The Owner of each Unit shall be entitled to one (1) vote. If there is more than one Owner for a particular Unit, the Owners of such Unit shall collectively be entitled to one (1) vote.

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

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

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

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

3.3.6 Electronic Ballots. Provided electronic ballots are not prohibited by any applicable Utah law, rule or regulation, in any instance where voting on a matter is permitted or required herein, the Association may utilize online balloting as provided and administered through a reputable third party online/website service. The Association may not simply send an email to Owners requesting they vote by replying to the email. The Association may, however, email to the Owners ballots that must be completed and then returned to the Association via regular mail or by emailing the Association a scanned copy of the completed ballot.

3.4 Bylaws of Association

3.4.1 Adoption of Bylaws

Bylaws for the administration of the Association and the Project and for other purposes not inconsistent with the Acts or with the intent of this Declaration, have been or shall be adopted by the Association. A copy of such Bylaws is attached to and made part of this Declaration as Exhibit "B".

3.4.2 Bylaws Provisions

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

3.5 Attorney in Fact

Each Owner, by the mere act of becoming an Owner or contract purchaser of a Unit, irrevocably appoints the Association as such Owner's attorney-in-fact, with full power of substitution, to take such action as reasonably necessary to promptly perform the duties of the Association, including but not limited to the duties to manage, operate, maintain, repair and improve the Project, to negotiate with insurance carriers upon any damage or destruction to the Project or any portion thereof, and to secure insurance proceeds.

ARTICLE 4 – BOARD OF DIRECTORS

4.1 Board Purpose

Administrative, management, and enforcement authority of the Association is vested in the Board of Directors, which shall be elected by, from, and among the Owners pursuant to the Bylaws. The Board, for the benefit of the Association and the Owners, shall administer, manage and enforce the provisions of the Governing Documents and shall have all powers and authority permitted to the Board under the Acts and the Governing Documents. The Board shall elect officers from among the Board members pursuant to the Bylaws. The Board may delegate all or any portion of the Board's authority to a Manager, or in such other manner as may be permitted under the Governing Documents.

4.2 Board Approvals

Any actions requiring Board approval under the Governing Documents including, without limitation, any actions the Board is permitted to take or approve without prior approval of the Owners (such as, for example, the imposition of certain Special Assessments per Section 8.3 of this Declaration) must be adopted and approved by a majority vote of the Board (*i.e.* more than half of the Board members).

4.3 Board Authority

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

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

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

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

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

(e) Maintenance of Common Area /Common Improvements. Maintenance, repair and/or replacement of any portion of the Common Areas, or any Common Improvements, as the Board shall determine as necessary and proper.

(f) Snow Removal. Contracting for, scheduling, arranging, and paying for the removal of snow from certain portions of the Project as may be permitted or required under the Governing Documents.

(g) Materials, Supplies and Labor. Materials, supplies, labor, services, maintenance, repairs, structural alterations, insurance, taxes or assessments which the Board is required to secure by law, or which in the Board's reasonable opinion shall be necessary or proper for the operation of the Common Areas or for the enforcement of the Governing Documents; provided that if for any reason such materials, supplies, labor, services, maintenance, repairs, structural alterations, insurance, taxes, or assessments are provided for or imposed upon any particular Units or their Owners, the cost thereof may be charged to or recovered from the Owner(s) of such Units via Special Assessment as reasonably determined by a majority vote of the Board.

(h) Unit Maintenance Services. Maintenance and repair of any Unit, including its appurtenances, improvements, equipment or appliances if (i) such maintenance or repair is reasonably necessary in the discretion of the Board to protect the Common Areas or preserve the appearance and value of the Project and (ii) the Owner(s) of said Unit have failed or refused to perform said maintenance or repair within a reasonable time after written notice of the necessity of said maintenance or repair has been delivered by the Board to such Owner(s); provided that the Board shall levy a Special Assessment against the Unit of such Owner(s) for the cost of such maintenance or repair.

(i) Personal & Real Property. Acquire and hold in the name of the Association, for the benefit of the Owners, tangible and intangible personal property and real property and interest therein, and dispose of the same by sale or otherwise; and the beneficial interest in such property shall be owned by the Owners in the same proportion as their Percentage Interest, and such property shall thereafter be held, sold, leased, rented, mortgaged or otherwise dealt with for the benefit of the Association as the Board may direct. The Board shall not, however, in any case acquire real property or personal property (other than for purposes of restoring, repairing or replacing portions of the Common Areas) valued in excess of Five Thousand Dollars (\$5,000) by lease or purchase without the approval of a Majority of the Owners.

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

4.3.2 Not for Profit. No provision of the Governing Documents shall be construed to give the Board the authority to conduct an active business for profit on behalf of all or any of the Owners.

4.3.3 Right to Contract. The Board shall have the exclusive right to contract for all goods and services, payment of which is to be made from the Common Expense Fund. The Board may delegate such powers to a Manager subject to the terms and conditions of the Governing Documents.

4.3.4 Board Access. The Board and its agents or designees, may enter and access any Common Area at any time, and may enter and access any Unit or any Limited Common Area in accordance with Section 5.5.

4.4 Delegation of Board Authority

The Board may delegate management responsibilities to a Manager pursuant to a written contract between the Manager and the Board on behalf of the Association. The Manager shall not be an employee of the Association and must be retained as an independent contractor. The termination provision of any such contract between the Association and the Manager must not include a termination penalty or any advance notice of any more than sixty (60) calendar days, and no such contract shall be for a cumulative term (including the initial term and renewal terms) of more than three (3) calendar years. The Manager may employ general laborers, grounds crew, maintenance, bookkeeping, administrative and clerical personnel as necessary to perform its management responsibilities. Provided, however, any management contract must be terminable by the Association with or without cause upon no less than thirty (30) calendar days written notice provided by the Board.

ARTICLE 5 – PROJECT OPERATION AND MAINTENANCE

5.1 Unit Maintenance

5.1.1 General Unit Maintenance. Subject to the Governing Documents, each Owner shall, at such Owner’s sole expense, have the duty to maintain, repair and replace his or her Unit including, without limitation, any and all equipment, appliances, appurtenances, improvements, and/or fixtures that are attached to and/or service his or her Unit, including any damage not covered by insurance. By example, and without limitation of the previous sentence, each Owner shall, at such Owner’s sole expense, maintain, repair and replace any and all windows and window systems, screens, doors and door systems, garage doors and garage door systems, as well as any fan units (including fans, fan motors, and fan enclosures), bathroom fan units and in-ceiling fan units, plumbing fixtures, water heaters, systems and lateral pipes or valves servicing only his or her Unit, including any damage not covered by an insurance claim.

Each Unit shall be maintained so as not to detract from the health, safety or uniform appearance of the Project and so as not to adversely impact the value or use of any other Unit. Each Owner shall keep his or her Unit clean, safe, and in a sanitary condition. The Board may, by rule, adopt, promulgate and enforce further requirements for the repair and maintenance of a Unit required for each Owner, in accordance with the terms of this Declaration and/or the Bylaws.

Owners are strictly prohibited from performing any repair, replacement or maintenance of any portion of the Project that may, in any manner whatsoever, impact or alter the exterior appearance of any Building without obtaining the prior written permission of the Board. The replacement, repair or maintenance referenced in the prior sentence includes, by example and without limitation, the repair, replacement or maintenance of any exterior doors, windows, or any other exterior portion or surface of the Project.

5.1.2 Maintenance of Unit Interior Surfaces and Fixtures. Without limiting the generality of Section 5.1.1, each Owner shall have the right and the duty at his or her sole cost and expense to maintain, repair, paint, paper, panel, plaster, tile, and finish the interior surfaces of the ceilings, floors, window frames, door frames, trim, and the perimeter walls of his or her Unit and the surfaces of the bearing walls located within his or her Unit and shall not permit or commit waste of such Unit or the Common Areas. Each Owner and his or her agent has the right to maintain, repair, paint, finish, alter, substitute, add or remove any fixtures attached to said ceilings, floors or walls. However, no Owner shall interfere with or cause damage to the structural integrity of any Building or interfere with the use and enjoyment of the Common Areas or any of the other Units. This Subsection shall not be construed to limit the powers or obligations of the Board hereunder. Except as otherwise specifically provided under this Declaration, or required by law, all costs associated with the maintenance and repair of any Unit, whether performed by or at the direction of the Board or of the Owner shall be the sole responsibility of the Owner(s) of such Unit.

5.1.3 Removal/Alteration of Common Walls. Pursuant to Section 57-8-4.5 of the Condominium Act, if an Owner has acquired two Units that share a common wall, he or she may remove or alter such common wall, or may create a doorway or other opening in such common wall that separates the Units, provided the Owner has first obtained the Board's written consent, which consent may be withheld to the extent permitted by the Acts or the provisions of any other applicable governmental law, rule or regulation.

5.1.3.1 An Owner may not remove or alter such common wall, nor create a doorway or other opening in such common wall, if doing so would:

- (a) damage or impair the structural integrity or mechanical systems of the Building or either Unit or any other Units;
- (b) reduce the support or functionality of any portion of the Common Areas and/or Common Improvements, or the support or functionality of another Unit; or
- (c) constitute a violation of Utah Code Section 10-9a-608 or Section 17-27a-608, as applicable, any local government land use ordinance, or any building code.

5.1.3.2 Any Owner who wishes to remove or alter such a common wall, or create a doorway or other opening in such common wall, must first submit to the Board, at the Owner's expense, a registered professional engineer's or registered architect's opinion certifying that the Owner's intended actions regarding the common wall will not: (a) damage or impair the structural integrity or mechanical systems of the Building or either Unit or any other Units; (b) reduce the support or functionality of any portion of the Common Areas and/or Common Improvements, or the support or functionality of another Unit; or (c) compromise any structural components of the Building or either Unit or any other Units.

5.1.3.3 Any Owner who wishes to remove or alter such a common wall, or create a doorway or other opening in such common wall, must pay all legal fees and other expenses of the Association related to the Owner's proposed actions related to the common wall.

5.1.3.4 If the Board grants an Owner permission to remove or alter such a common wall, or create a doorway or other opening in such common wall, such action will not alter the Owner's Assessment obligations or voting rights associated with each Unit as provided under the Governing Documents.

5.1.3.5 If an Owner wishes to reconstruct any common wall that was partially or completely removed pursuant to this Section 5.1, that Owner must first obtain the Board's written consent, and the Owner must engage the services of a contractor that is adequately qualified, bonded and insured to perform such work. Such common wall must be reconstructed in a manner that does not: (a) damage or impair the structural integrity or mechanical systems of the Building or either Unit or any other Units; (b) reduce the support or functionality of any portion of the Common Areas and/or Common Improvements, or the support or functionality of another Unit; or (c) compromise any structural components of the Building or either Unit or any other Units. The common wall must also be reconstructed in a manner that meets or exceeds the quality and specifications of other such common walls in the Project (e.g. dimensions, quality of materials, sound-proofing, etc.) as determined by the Board.

5.2 Unit Interior Changes – Approval & Deposit Required

5.2.1 An Owner may not make any improvement or alteration to his or her Unit: (1) that results in the substitution of different types of materials, facilities, apparatus and components from those originally installed, (2) that constitutes a structural change, such as moving, removing, adding, or altering walls, doorways, and the like, or (3) that affects any Common Area, Limited Common Area, or any other Unit, without first submitting detailed plans therefor to the Board and obtaining the Board's written approval of such plans and changes. In the event such plans and changes are approved by the Board, the Owner shall, in advance of such work, deliver to the Association a security deposit in an amount to be determined by the Board. All local codes shall be adhered to and all applicable permits must be obtained by the Owner prior to commencement of any such work. All construction activities, including cleanup, access by workers, acceptable work hours, etc., must be performed in accordance with standards and regulations set forth by the Association.

5.2.2 An Owner may not, without the prior written consent of the Board, install or erect any improvement, mechanical system or fixture (including, without limitation, a satellite dish except as otherwise specifically provided under Section 6.12) that either: (1) protrudes beyond the boundaries of his or her Unit or Limited Common Area; or (2) is located outside his or her Unit (even if located within the Limited Common Area that is appurtenant to such Unit).

5.3 Exterior Appearance

In order to preserve a uniform exterior appearance of the Project, no exterior changes whatsoever shall be commenced, erected, maintained, made or done by any Owner to the exterior of any Unit or to any Limited Common Area (e.g. parking spaces, patios, decks, balconies, etc.) without the prior written approval of the Board. Without in any way limiting the generality of the previous sentence, an Owner may not, without the prior written consent of the Board, install or erect any improvement, mechanical system or fixture (including, without limitation, a satellite dish except as otherwise specifically provided under Section 6.12) that is temporarily or permanently connected or attached to any Common Improvement including, without limitation, any dividing wall, railing or fence that encompasses, surrounds or comprises any Limited Common Area. The Board shall have sole discretion to establish, regulate and determine the exterior appearance of the Buildings. The Board may require and otherwise regulate painting and other decorative finishing of the Buildings including, without limitation, any Common Areas (including Limited Common Areas) and prescribe the type and color of such decorative finishes, and may prohibit, require or regulate any modification or decoration of such Buildings, including Common Areas or Limited Common Areas undertaken or proposed by any Owner. This power of the Board extends to screens, doors, windows, awnings, railings or any other visible portions of each Unit and each Building. No aluminum foil, newspapers, or any other similar materials may be used to cover the interior or exterior side of any windows of any Unit. Sunshades are not allowed on the exterior of any Building, unless the color, style, construction material, installation method, and uniformity of appearance have been approved by the Board in advance and in writing.

5.4 Certain Work Prohibited

Notwithstanding any other provisions of the Governing Documents, no Owner shall do any work or make any alterations or changes which would jeopardize the soundness or safety of any portion of the Project, reduce its value or impair any easement or hereditament, without in every such case obtaining the unanimous written consent of all other Owners.

5.5 Access to Units and Limited Common Areas

As set forth under Section 57-8-7 of the Condominium Act, the Board and/or the Manager may access a Unit (including any Limited Common Area attached to such Unit) as necessary to maintain, repair or replace any Common Area or Common Improvement. Any such access to any Unit or Limited Common Area must comply with the provisions of this Section 5.5.

5.5.1 Non-Emergency Maintenance, Repair or Replacement

The Board or the Manager may access any Unit or Limited Common Area for the purpose of performing non-emergency maintenance, repair, or replacement of any Common Areas or Common Improvements only after the Board or the Manager has delivered written notice to the Owner of the Unit and received the Owner's written permission to enter the Unit. The Owner may provide such written permission to the Board or the Manager via regular mail or email. The Owner shall notify the Board or Manager if the Unit is being rented or is otherwise occupied by someone other than the Owner, in which case (A) the Owner shall immediately notify the tenant or any other occupant of the Unit and (B) no later than 48 hours prior to entering the Unit or Limited Common Area, the Board or Manager shall post on the Unit's front exterior door written notice of the Board's or Manager's intent to access the Unit or Limited Common Area in order to maintain, repair, or replace Common Areas or Common Improvements.

5.5.2 Emergency Maintenance, Repair or Replacement

The Board or the Manager may access any Unit or Limited Common Area to perform emergency maintenance, repair, or replacement of any Common Areas or Common Improvements after the Board or the Manager has provided the Owner with reasonable notice.

As used in this Section 5.5, the term "emergency repairs" means any repairs that, if not made in a timely manner, will likely result in immediate and substantial damage to any part of the Project (including another Unit or Units) as reasonably determined by the Board and/or the Manager. Examples of "emergency repairs" includes broken water or sewer pipes, etc.

As used in this Section 5.5, and as set forth under Section 57-8-7 of the Condominium Act, in the case of emergency repairs of any Common Areas or Common Improvements, the term "reasonable notice" means any notice that is reasonable under the circumstances, as determined by the Board or the Manager. In certain emergency situations, the Board or Manager may determine that advance notice to the Owner is not be feasible or necessary in order to prevent immediate and substantial damage to any part of the Project (including other Units).

Regardless of such circumstances, if the Board or Manager enters a Unit or Limited Common Area to perform emergency maintenance, repair, or replacement of any Common Areas or Common Improvements, the Board or the Manager shall make every reasonable effort to notify the Owner regarding such entry via telephone and/or email no later than 24 hours after the Unit and/or Limited Common Area was accessed (provided, of course, the Owner has provided the Board or the Manager with the Owner's current telephone number and email address).

5.6 **Limited Common Area Maintenance and Use**

5.6.1 Limited Common Areas – Generally. The use, condition and appearance of Limited Common Areas may be regulated under the provisions of the Governing Documents. Unless otherwise specifically set forth in the Governing Documents, the general care and maintenance of any Limited Common Area shall be the sole responsibility of the Owner(s) of the Unit(s) for which the use of such Limited Common Area has been limited, set aside or reserved. Owners may not, however, modify, paint or otherwise decorate, or in any way alter their respective Limited Common Areas without first obtaining the Board's prior written approval.

5.6.2 Shelters/Enclosures. Owners are strictly prohibited from placing, erecting or constructing any temporary or permanent shelters or enclosures on, in or around any patio, balcony, deck, parking space or similar Limited Common Area without first obtaining the prior written approval of the Board. All costs associated with, or arising out of the existence of, such shelters or enclosures including, without limitation, maintenance, installation, removal, repair, cleaning, damage (whether to any Common Area or to any Unit), insurance, or any other expenses or liabilities, regardless of whether there is fault or negligence, shall be the sole responsibility of the Owner of the Unit serviced by the shelter or enclosure. Any enclosed patio, balcony, deck, parking space or similar Limited Common Area shall retain its original status as Limited Common Area, and shall not be deemed as part of any Unit or an interest in real property by virtue of its being enclosed. The Board may, from time to time, adopt, promulgate and enforce rules further regulating, clarifying or otherwise expanding the provisions of this Subsection 5.6.2.

5.6.3 Removal/Alteration of Limited Common Area Walls. If an Owner has acquired two Units that share a common wall or other partition that separates the Limited Common Areas of such Units, he or she may remove or alter such common wall or other partition, or may create a doorway or other opening in such common wall or other partition, provided the Owner has first obtained the Board's written consent, which consent may be withheld to the extent permitted by the Acts or the provisions of any other applicable governmental law, rule or regulation.

Any Owner's request to remove or alter such common wall or other partition that separates Limited Common Areas, or create a doorway or other opening in such common wall or other partition, shall be subject to the restrictions and requirements set forth under Subsection 5.1.3.1 through Subsection 5.1.3.5.

5.6.4 Attachment to Structural Elements. Owners are strictly prohibited from constructing, erecting or attaching any item, device or equipment to any structural elements of any Limited Common Area including, without limitation, any walls or railings that surround, encompass or comprise any patio, deck or balcony. Owners must refrain from allowing any items (including, by example and without limitation, towels, clothing or hot tub covers) to hang from or dangle over the walls or railings of any patio, deck and/or balcony.

5.6.5 Damage or Injury. Each Owner will be personally liable, will be financially liable to the Association, and may be fined by the Association for any damage (beyond normal or reasonable wear and tear) caused to any Limited Common Area due to such Owner's actions or inactions in connection with such Limited Common Area.

Each Owner shall be held responsible for any damage or injury caused to any personal or real property, or to any individual, as a result of such Owner's failure to properly use, care for and/or maintain his or her Limited Common Area(s) as required by this Section 5.6 and any other provisions of the Governing Documents.

5.7 Common Area Maintenance

5.7.1 Common Areas – Generally. The Association shall be responsible for the care and maintenance of the Common Areas as generally provided in this Declaration. Specific issues regarding the use, condition and appearance of the Common Areas may be further adopted and enforced under the Rules and Regulations.

5.7.2 Alterations to the Common Area. During the entire Period of Declarant Control, the Declarant may make changes to the design and construction of any improvements located in or on the Common Area without providing any advance notice to, and without obtaining the approval or permission of, the Board, the Association or any Owners.

5.7.3 Limitations on Improvements by Association. During the entire Period of Declarant Control, neither the Association nor the Board shall, without the prior written consent of the Declarant, make any changes or alterations whatsoever to any of the Common Areas or Common Improvements other than such repairs, replacements, or similar efforts as may be necessary to properly maintain the Common Areas or Common Improvements as originally created or constructed by the Declarant.

ARTICLE 6 – RESTRICTIONS ON USE

6.1 Residential Use

The Units shall be used for single-family residential purposes only, on an ownership, rental or lease basis; and for the common social, recreational or other reasonable uses normally incident to such purposes. Such use as a single-family residence shall be deemed to include accessory use as a professional office to the extent permitted by applicable zoning ordinances and to the extent customarily incidental to primary use as a residence.

6.2 Vehicle Parking

Parking spaces, and any other parking areas located within the Project may only be used for the parking of vehicles that are operative and have been properly registered with a governmental motor vehicles department or division. Motor homes, campers, trailers, boats, and other similar vehicles, items or equipment may not be parked or kept in such parking spaces or parking areas unless specifically permitted under the Rules and Regulations as adopted by the Board. The Board may require removal of any vehicle or equipment that is inoperative or is not properly registered, or any unsightly vehicle or equipment, or any other equipment or item that is improperly stored in any parking space or other parking area. If such vehicle, equipment or item is not removed, the Board may cause removal at the risk and expense of the owner thereof. The use of all parking spaces or any other parking areas within the Project may be further regulated by Rules and Regulations that may be adopted by the Board from time to time.

Recreational vehicles including, for example and without limitation, snowmobiles, off-road motor vehicles such as dirt bikes or ATVs may not be operated on any portion of the Project except as necessary for the loading or unloading of such vehicles.

6.3 Repair Activities

No repair of any detached machinery, equipment or fixtures, including without limitation, motor vehicles, shall be performed within the Project.

6.4 Common Drive and Walks

Common drives, walks, corridors and stairways shall be used exclusively for normal transit and/or pedestrian traffic and no obstructions shall be placed thereon or therein without the Board’s prior written consent.

6.5 Retail or Commercial Activities

Retail or commercial activities are prohibited on any portion of the Common Areas. The determination of whether or not a particular activity is retail or commercial in nature shall be made by the Board. Any such determination by the Board shall, at all times, be subject to any applicable South Ogden or Weber County ordinances or zoning related to retail or commercial activities within the Project.

6.6 Effect on Insurance

Nothing shall be done or kept in any Unit or in the Common Area that may increase the rate of insurance on the Common Areas or any Common Improvements or any Units without the prior written consent of the Board. No Owner shall permit anything to be done or kept in his or her Unit or in the Common Areas or Limited Common Areas which will result in the cancellation of insurance on any Unit or any part of the Project, or which would violate any applicable governmental laws, ordinances, rules or regulations.

6.7 Signs

The Board may, as permitted by applicable law, adopt and enforce rules regarding the posting of signage throughout the Project. The Board may, for example but without limitation, impose limitations on the size and location of signs in order to reasonably maintain the Project’s appearance.

6.8 Lighting

Exterior lighting fixtures, as well as any walkway and landscaping lights, are prohibited on any portion of the Project unless such lighting has been approved by the Board in advance and in writing. Such exterior lighting includes any lighting fixtures or devices that may be temporarily or permanently installed or located on any exterior portion of any Building or on any Common Area (including any Limited Common Area). Whenever possible, efforts should be made to insure that lighting located within or upon the interior or exterior of any Building (including within any Unit or any Limited Common Area) is not offensive to other Owners or to the owners of nearby or surrounding property.

6.9 Floor Load

There shall be no floor load in excess of the weight for which the Unit was designed as determined by the developer and builder of the Building in which the Unit is located unless special arrangements are made, and an engineering determination of floor load capacity is obtained by the Owner and approved in writing by the Board. It shall be the Owner's responsibility to determine if any particular item exceeds the floor load capacity for a Unit.

6.10 Animals

6.10.1 General. Owners may only keep domestic animals in their Units. Owners are prohibited from keeping any wild or dangerous animals in their Units. In no event shall any Owner be permitted to raise, breed, keep or maintain any animals for any commercial purposes. No livestock or poultry of any kind shall be raised, bred or kept in any Unit or in the Common Areas or on any other portion of the Project.

6.10.2 Animals in Common Areas. No animal shall be permitted in any Common Areas unless carried in a carrier or properly controlled on a leash. All animal waste shall be promptly removed from the Common Areas (including Limited Common Areas) and be fully cleaned-up by the animal's owner.

6.10.3 Additional Board Rules. The Board may adopt additional rules restricting the maintenance and keeping of animals within the Project and their enforcement, including, without limitation, the assessment of fines to Owners who violate such rules.

6.11 Nuisances and Offensive Activity

No noxious, offensive, or illegal activity shall be carried on in any Unit or Common Area (including Limited Common Area), nor shall anything be done therein which may be or become an annoyance or nuisance to any other Owner (or to any guest, tenant or other occupant of any Unit) or which may cause damage to any Common Area (including any Limited Common Area).

6.12 Communication Devices

The installation or use, on or in any portion of the Project, of any broadcasting, receiving, satellite and/or wireless signal dishes, antennas or similar devices (collectively, "**Communication Devices**") that are not permitted and/or regulated by the Federal Communications Commission ("**FCC**") is prohibited. Communication Devices that are one meter in diameter or less, and designed to receive direct broadcast satellite service, including direct-to-home satellite service, and/or receive or transmit any wireless signals, may be installed only to the extent and in locations clearly allowed under local, state or federal law, and no cables used for signal reception shall be allowed in or through any visible portion of any Common Area (including any Limited Common Area).

6.12.1 Common Areas. Owners are strictly prohibited from constructing, erecting or attaching any Communication Device(s) to any structural elements of any Common Area (including any Limited Common Area) including, without limitation, any walls or railings that surround, encompass or comprise such Common Areas. Any Communication Devices that are in

any way placed or used in any Limited Common Area (e.g. tripod-mounted satellite dish) must be positioned, maintained and used in a safe and attractive manner and location. No Owner may install any Communication Device on the exterior, roof, or restricted areas of any Building. No Communication Device may extend beyond the boundaries of any Limited Common Area, or extend or hang beyond the walls or railings surrounding any Common Area (including any Limited Common Area). Owners may not drill holes in or through the exterior walls, doors or window frames, or the roof of any Building in order to install any Communication Device or run cable from the Communication Device into any Unit without the Board's prior written permission.

6.12.2 Liability and Insurance. Owners are responsible for any injury or damage to persons or property caused by their Communication Device(s). Owners must purchase and maintain liability insurance for the use of any Communication Device, which insurance must name the Association as an additional insured. Owners shall provide the Board with proof of such insurance upon request.

6.12.3 FCC Rules. All Communication Device installations must be performed in complete compliance with all applicable governmental laws, rules and regulations. If permits are required, Owner will obtain all such permits prior to installation. The provisions of this Section 6.12 are intended to comply with applicable FCC rules, as may be amended from time to time. All requirements of such FCC rules are hereby incorporated herein. In the event any portion of this Section 6.12 is held to conflict with any applicable laws, rules or regulations, those portions shall be deemed stricken and all other portions of this Section 6.12 regarding Communication Device installation, maintenance, use and insurance will remain in full force and effect.

6.12.4 Waiver. No requirements or restrictions of this Section 6.12 may be verbally waived or changed by the Board. Any such waiver or change will be effective only when placed in a writing specifically stating the nature of the waiver that has been approved by a majority vote of the Board. If any Owner receives the benefit of any waiver or change of the provisions of this Section 6.12, it shall be that Owner's responsibility and obligation to keep and safeguard the written waiver or change and to produce it upon any future request of the Board.

6.13 Leases and Short-term Rentals

Subject to any applicable laws, rules, or regulations that may be adopted by South Ogden or Weber County, there are no restrictions on the right of any Owner to lease, rent or otherwise grant occupancy rights to a Unit. Each Owner acknowledges and agrees that the Units may be rented on a daily, weekly, monthly, or other periodic basis, and that vacation and other short-term rentals are permitted.

Owners who rent their Unit must assume complete responsibility for the actions and behavior of their tenants and the guests of such tenants. Owners shall provide their tenants with a copy of the Governing Documents to ensure compliance. Any violation of any provision of the Governing Documents by any tenant, guest of tenant or any other occupant of the Unit may result in a fine being levied against the Unit, the payment of which shall be the sole responsibility of the Owner of that Unit.

6.14 Rules and Fines

The Board may, by rule or regulation, adopt, clarify, promulgate and/or enforce further requirements or restrictions regarding the use of any portion of the Project, and to ensure compliance with the general guidelines of this Article 6 and other provisions of the Governing Documents. The Board must place such Rules and Regulations in writing, and must furnish or make available to the Owners a complete copy of such rules and regulations.

Violations of any provisions of this Article 6, the Rules and Regulations or any other provisions of the Governing Documents may result in the imposition of a fine. Each Owner is accountable and responsible for the behavior of his or her residents, tenants, guests and/or other occupants of such Owner's Unit. Fines levied against such residents, tenants, guests and/or other occupants are the responsibility of the Owner.

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

(a) Before assessing any fine against an Owner, the Board must first send the Owner written notice of the violation and inform the Owner that the fine will be imposed if the violation is not cured within the period of time provided in the Governing Documents which shall be no less than forty-eight (48) hours.

(b) Any fine assessed by the Board shall:

(1) be made only for the violation of a restrictive covenant, rule or regulation as specifically listed or described under the Governing Documents, the Acts or any other applicable law as an offense which is subject to a fine;

(2) be in an amount specifically provided for in the Governing Documents for that specific type of violation, provided that such amount shall not exceed \$500 per violation; and

(3) accrue interest and late fees as provided in the Governing Documents.

(c) Cumulative fines for a continuing violation may not exceed \$500 per month.

(d) An Owner who is assessed a fine may request an informal hearing to protest or dispute the fine within thirty (30) calendar days from the date the fine is assessed. The hearing shall be conducted in accordance with the standards provided in this Declaration, the Bylaws, or the Rules and Regulations. No interest or late fees may accrue until after the hearing has been conducted and a final decision has been rendered.

(e) If a written request for a hearing is not received by the Board within the thirty (30) calendar days set forth under Subsection (d), the right to such a hearing shall be waived, and the fine imposed will stand.

(f) As provided under the Condominium Declaration, an Owner may appeal any fine issued under this Subsection 6.12 by initiating a civil action within 180 days after either: (a) a hearing has been held and a final decision has been rendered by the Board as a result of the hearing described under Subsection 6.12(d), or the time to request an informal hearing as described under Subsection 6.12(e) has expired without the Owner making such a request.

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

(h) The procedures set forth under this Section 6.12 are intended to be consistent with the requirements of the Condominium Act as of the date this Declaration is recorded in the Recorder's Office. The Association and the Board shall at all times comply with any amendments to the Condominium Act that may govern the manner in which fines are assessed, imposed and/or collected.

ARTICLE 7 – BUDGET AND EXPENSES

7.1 Association Budget and Estimated Expenses

7.1.1 Annual Budget. Annual Assessments shall be determined on the basis of a fiscal year that begins on January 1 of each calendar year and ends on the subsequent December 31st of that same year. No later than thirty (30) days prior to the annual Owners' meeting, the Board (or the Manager, if so requested by the Board) shall prepare and deliver to the Owners an operating budget (the "**Annual Budget**") which shall set forth an itemization of expenditures for the upcoming fiscal year. At the same time the Annual Budget is provided to the Owners, the Board may also provide the Owners with information concerning the Reserve Fund, including current balance, anticipated disbursements from the Reserve Fund for the next fiscal year (including the purpose for such disbursements), anticipated deposits to the Reserve Fund for the next fiscal year, and such other matters concerning the Reserve Fund as the Board deems appropriate. Except as otherwise provided herein, disbursements from the Reserve Fund shall be generally consistent with the most recent reserve analysis, as reviewed and updated by the Board. The Board may furnish the Annual Budget and information concerning the Reserve Fund and the reserve analysis to the Owners by posting copies on the Association's website.

The Annual Budget shall be based upon the Board's estimates for the payment of all expenses connected with the administration, operation and maintenance of the Project during such fiscal year. The Annual Budget shall itemize by line item or category the estimated Common Expenses, anticipated receipts (if any), any deficit or surplus from prior operating periods, and shall also include the Reserve Fund Line Item for such fiscal year as described under Section 7.2 of this Declaration. The Annual Budget shall serve as the supporting document for the Annual Assessments for the fiscal year to which the Annual Budget applies, and as a major guideline under which the Project shall be operated and managed during such fiscal year.

The Annual Budget, and each line item therein, is intended as a management tool for the Board to meet the Common Expenses and cash needs of the Association for the applicable fiscal year. The actual amount of any given line item or category may exceed or be less than the amount that is set forth in the Annual Budget. Nothing herein or in the Annual Budget shall prevent the Board from reallocating funds from one line item or category in the Annual Budget to another line item or category in order to meet actual expenses as they are incurred. Any such reallocation shall not require the Board to give prior notice to the Owners or obtain the Owners' approval.

7.1.2 Annual Budget Shortfall. If, at any time and for any reason, the total sum estimated and budgeted for the Annual Budget proves inadequate to pay any Common Expenses (“**Annual Budget Shortfall**”) the Board may utilize Reserve Fund monies pursuant to Section 7.5 and/or impose a Special Assessment pursuant to Section 8.3.1 in order to cover the Annual Budget Shortfall.

An Annual Budget Shortfall may not be caused by the Board having added new items or expenses to the Annual Budget, unless such addition is necessary in order to address an emergency situation or unexpected expenses that are directly related to the maintenance, repair and/or replacement of items that were already addressed under the Annual Budget. An Annual Budget Shortfall could be caused by an unanticipated increase in Common Expenses due to, for example, increased snow removal costs caused by rising fuel costs or exceptionally heavy snowfall. An Annual Budget Shortfall could also be caused by the failure of any individual Owner (or group of Owners) to pay their Annual or Special Assessment(s). The Board must provide the Owners with a report of the emergency situation or unexpected expenses that caused the Annual Budget Shortfall, including a summary of the previously estimated expenses and the revised expenses. Such report shall be posted on the Association’s website.

7.1.3 Annual Budget Excess. If the actual Common Expenses for any fiscal year is less than the Annual Budget amount for such fiscal year, the Association may, by majority vote of the Board (or by a majority vote of those Owners present at the Annual Meeting if required by any governmental tax agency or authority): (A) deposit all or any part of such excess into the Reserve Fund or (B) deposit all or any part of such excess into a separate special fund (*e.g.* a special capital improvement fund or a fund the Board may establish in order to cover the maintenance, repair, replacement or acquisition of specific Common Improvements, etc.) to be included in the next fiscal year’s Annual Budget.

7.2 Reserve Fund Line Item

The purpose of this Section 7.2 is to comply with Section 57-8-7.5 of the Condominium Act, as may be periodically amended.

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

7.2.2 Veto of Reserve Fund Line Item. No later than forty-five (45) calendar days after the day on which the Association adopts the Annual Budget, the Reserve Fund Line Item may be vetoed by the Owners (at a special meeting called by the Owners for the purpose of voting whether to veto the Reserve Fund Line Item) collectively holding at least fifty-one percent (51%) of the Percentage Interest.

If the Owners veto the Reserve Fund Line Item as provided under this Subsection 7.2.2, and a Reserve Fund Line Item exists in a previously approved Annual Budget that was not vetoed, the Association shall fund the Reserve Account in accordance with the Reserve Fund Line Item from the previously approved Annual Budget.

7.2.3 Owner Legal Action. If the Association fails to comply with the requirements of Section 57-8-7.5 of the Condominium Act or any provisions of this Declaration pertaining to the Reserve Fund Line Item, and the Association fails to remedy such noncompliance within the time period specified under Section 57-8-7.5 of the Condominium Act, any Owner may file an action in state court for damages or remedies pursuant to the Condominium Act.

7.3 Common Expense Fund

With the exception of those amounts that may be set aside and deposited into the Reserve Fund, or any amounts the Board may elect to deposit into a similar separate special fund (*i.e.* special capital improvement fund, or any fund the Board may establish in order to cover maintenance of specific Common Improvements, etc.), the total amount of any and all Assessments paid by the Owners shall be deposited into the Common Expense Fund.

7.4 Reserve Analysis

7.4.1 Reserve Analysis Frequency. As required by the Condominium Act, the Board shall cause a reserve analysis to be conducted no less frequently than every six (6) calendar years; and subsequently review and, if necessary, update a previously conducted reserve analysis no less frequently than every three (3) calendar years.

7.4.2 Reserve Analysis Purpose. As set forth under Section 57-8-7.5 of the Condominium Act, the purpose of the reserve analysis is to determine: (a) the need for a Reserve Fund to accumulate money to cover the cost of repairing, replacing, or restoring Common Areas and/or Common Improvements that have a useful life of three (3) years or more and a remaining useful life of less than thirty (30) years, if the cost cannot reasonably be funded from the Annual Budget (including the Common Expense Fund) or other funds of the Association; and (b) the appropriate amount of the Reserve Fund.

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

7.5 Reserve Fund

7.5.1 Purpose of Reserve Fund. In addition to the purposes for which a Reserve Fund is to be established as described under Subsection 7.5.3, or any other provisions of this Declaration, the Reserve Fund may also be used to pay for any unexpected Common Expenses or capital improvements, provided that the costs for such unexpected Common Expenses or capital improvements cannot reasonably be funded through the Annual Budget, or from the Common Expense Fund or other funds of the Association.

7.5.2 Funding of Reserve Fund. The Reserve Fund shall be funded via the Reserve Fund Line Item described under Section 7.2 of this Declaration. The Reserve Fund may also be funded via Special Assessment(s) as set forth under Subsection 8.3.3.

7.5.3 Use of Reserve Fund. As set forth under the Condominium Act, the Board may not use money in the Reserve Fund (i) for daily maintenance or administrative expenses, unless a Majority of the Owners vote to approve the use of Reserve Fund money for such purpose; or (ii) for any purpose other than those purposes for which the Reserve Fund was established.

7.5.4 Annual Presentation and Discussion of Reserve Fund. As required under the Condominium Act, the Association shall, at each annual meeting of the Owners or at a special meeting of the Owners called for the purpose of addressing the Reserve Fund: (i) present the reserve analysis; and (ii) provide an opportunity for the Owners to discuss reserves and vote on whether to fund the Reserve Fund and, if so, how to fund it and in what amount. The Association shall prepare and keep minutes of each such meeting held and indicate in the minutes any decision relating to funding the Reserve Fund.

7.6 Funds to be Maintained Separately

The Common Expense Fund and the Reserve Fund shall be kept in separate accounts, shall be established and deposited with a federally-insured bank or credit union, and shall be deposited into a checking, savings or certificate of deposit account. In the event the Board elects to establish and maintain any separate fund (*i.e.* special capital improvement fund or fund to cover maintenance of specific Common Improvements, etc.), a separate account shall be established for each such fund and deposited with a federally insured bank or credit union.

7.7 Recordkeeping

As required under the Acts, the Board shall cause to be kept detailed and accurate records in chronological order of the receipts and expenditures affecting the Common Areas, specifying and itemizing the maintenance and repair expenses of the Common Areas and any other expenses incurred. Such records shall be available for examination by any Owner at convenient hours of weekdays no later than fourteen (14) calendar days after the Owner makes a written request to examine such records.

ARTICLE 8 – ASSESSMENTS

8.1 Owner Payment of Assessments

8.1.1 Assessments. Each Owner shall pay Assessments subject to and in accordance with the procedures set forth in this Article 8 or any other applicable provisions of the Governing Documents. As used in this Declaration, the term “**Assessments**” shall include Annual Assessments, Special Assessments and any other assessments as may be permitted under the Condominium Act or the Governing Documents.

8.1.2 Purpose of Assessments. Any and all Assessments provided for under this Declaration shall be used for the general purpose of operating the Project, promoting the recreation, health, safety, welfare, common benefit and enjoyment of the Owners, including the maintenance of any real and personal property owned by the Association, and regulating the Project, all as may be more specifically authorized from time to time by the Board.

8.1.3 Obligation to Pay Assessments. Each Assessment shall be joint and several personal debts and obligations of the Owner(s) and contract purchaser(s) of Units for which the same are assessed as of the time the Assessment is made and shall be collectible as such. Each Owner, by acceptance of a deed or as a party to any other type of conveyance of any Unit, vests in the Association or its agents the right and power to (a) bring all actions against him or her personally for the collection of any debts arising out of or related to any Assessments, or any other charges related to such Assessments; or (b) foreclose any lien arising out of or related to any Assessments, or any other charges related to such Assessments, in the same manner as mechanics liens, mortgages, trust deeds or encumbrances may be foreclosed.

8.1.4 No Waiver. No Owner may waive or otherwise exempt himself or herself from liability for the Assessments provided for herein, including, without limitation, non-use of Common Areas, non-use of any Common Improvements, and/or the abandonment of his or her Unit.

8.1.5 Duty to Pay Independent. No reduction or abatement of Assessments shall be claimed or allowed by reason of any alleged failure of the Association, the Board or the Manager to take some action or perform some function required to be taken or performed by the Association, the Board or the Manager pursuant to the Governing Documents, or for any inconvenience to any Owner arising from or related to any maintenance or repairs occurring anywhere within the Project, or from any action taken by the Association to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority, the obligation to pay Assessments being a separate and independent covenant on the part of each Owner.

8.1.6 Imposition of Assessments. The dollar amount of, and the purpose for, any Assessment shall be determined pursuant to the procedures set forth in the Acts and/or the Governing Documents. However, the Board has the sole authority and discretion to determine how and when any Assessment will be imposed upon, paid by and/or collected from the Owners.

8.1.7 Application of Payments. All payments received by the Association from Owners shall be applied in the following order: (i) Additional Charges, (ii) past due Assessments, (iii) currently due Assessments; (iv) Bulk-Billed Utility charges; (v) any remaining charges.

8.1.8 Account Status. The Association shall provide Owners with a timely accounting of the status of their accounts. Such accountings will be considered accurate unless challenged within ninety (90) calendar days of the posting of any item. After 90 calendar days, the costs incurred by the Association to review any item will be the responsibility of the individual Owner.

8.1.9 Statement of Assessments Due. Upon written request by any Owner, the Board shall furnish to such Owner a statement of Assessments due, if any, on his or her Unit. The Association may require the advance payment of a processing charge not to exceed \$25.00 for the issuance of such statement. This written statement of Assessments due shall be conclusive in favor of any person who relies on such statement in good faith.

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

8.1.11 Declarant Exempt. Notwithstanding any language in the Governing Documents to the contrary, unless otherwise prohibited by the Acts or any applicable governmental law, rule or regulation, the Declarant shall not be obligated to pay Annual Assessments on any Units owned by the Declarant unless and until: (A) such Units have been completed as solely evidenced by the issuance of a Certificate of Occupancy by Weber County or South Ogden; or (B) Declarant elects in writing to pay the Annual Assessments, whichever first occurs. However, the Declarant shall not be exempt from the payment of any Special Assessments that may be imposed by the Association, the Board or that may be otherwise required under the Governing Documents.

8.2 Annual Assessments

8.2.1 Use of Annual Assessments. Annual Assessments shall be levied by the Board against each Unit and its Owner in order to pay the Operating Expenses, fund the Reserve Fund and for any other purposes as permitted by the Acts or the Governing Documents.

8.2.2 Based on Percentage. All Annual Assessments shall be assessed to each Unit and the Owners thereof in an amount equal to the Percentage Interest for such Unit.

8.2.3 Notice of Annual Assessments and Time for Payment. The Board shall notify each Owner in writing as to the amount of the proposed Annual Assessment against such Owner's Unit for the upcoming fiscal year not later than thirty (30) calendar days prior to January 1st of such upcoming fiscal year. Each Annual Assessment shall be payable in twelve (12) equal monthly installments, with each such installment due on the first day of each calendar month during the fiscal year to which the Annual Assessment relates.

The monthly installment of the proposed Annual Assessment shall become due and payable by each Owner on the first day of January of the fiscal year to which the proposed Annual Assessment relates, and shall continue to be due and payable on the first day of each subsequent calendar month until the Annual Assessment that is due and payable by such Owner for that fiscal year has been paid in full. The Board shall determine the manner in which any discrepancies in monthly installments due and payable by each Owner for a particular fiscal year, if any, will be resolved.

The failure of the Board to timely deliver notice of any Annual Assessment as provided herein shall not be deemed a waiver or modification in any respect of the provisions of this Declaration, nor a release of any Owner from the obligation to pay such Annual Assessment or any other Assessment; provided, however the date when the payment shall become due in such case shall be deferred to a date fifteen (15) calendar days after notice of such Assessment shall have been given to the Owner, and until such time, Owners shall continue to pay monthly installments of the Annual Assessment as last approved.

8.3 Special Assessments

In addition to the Annual Assessments authorized by Section 8.2, the Board may, on behalf of the Association, periodically impose special assessments (“**Special Assessments**”) pursuant to this Section 8.3.

8.3.1 Annual Budget Shortfall. If the sum estimated and budgeted for the Annual Budget at any time proves inadequate for any reason the Board may impose a Special Assessment which shall be assessed to each Unit and the Owner(s) thereof in an amount equal to the Percentage Interest for such Unit.

Any such Special Assessment deemed by the Board as necessary to remedy an Annual Budget shortfall, and imposed by the Board without the prior approval of the Owners, shall not exceed ten percent (10%) of the Annual Assessment for the same fiscal year in which the Special Assessment has been imposed. Owners shall be given no less than thirty (30) calendar days written notice of any such Special Assessment caused by an Annual Budget shortfall.

In the event the Board determines an Annual Budget shortfall may only be adequately remedied by a Special Assessment that exceeds ten percent (10%) of the Annual Assessment for the same fiscal year in which the Special Assessment is to be imposed, such a Special Assessment shall require an affirmative vote or written consent of a Majority of the Owners. In the event the Board is unable to obtain such an affirmative vote or written consent of a Majority of the Owners, the Board may cover the Annual Budget shortfall by using all or any portion of the Reserve Fund.

8.3.2 No Board Majority. If the Board is unable to obtain a majority vote of the Board members (as required under Section 4.2) to approve any Special Assessment that the Board is otherwise authorized to approve without the Owners’ prior approval, the Board shall present such Special Assessment to a vote of the Owners, and the Special Assessment must be approved by a Majority of the Owners.

8.3.3 Reserve Fund Shortfall. In the event of any shortfall in the Reserve Fund, the Board may impose a Special Assessment to remedy such shortfall, provided the Board has first obtained an affirmative vote from a Majority of the Owners. Such Special Assessment shall be assessed to each Unit and the Owner(s) thereof in an amount equal to the Percentage Interest for such Unit.

8.3.4 No Authority to Incur Expenses. This Section 8.3 shall not be construed as an independent source of authority for the Association or the Board to incur expenses, but shall only be construed to prescribe the manner of assessing for any Annual Budget shortfall or Reserve Fund shortfall.

8.3.5 Notice and Payment. Special Assessments shall be payable on such date(s) and over such time periods as the Board may determine. The Board, in its sole discretion, may allow any Special Assessment to be paid in installments. Notice in writing of the amount of each such Special Assessment and the time for payment thereof shall be given promptly to the Owners. However, no payment of any Special Assessment, or any portion of any Special Assessment, shall be due less than thirty (30) calendar days after such notice shall have been given. The failure of the Board to deliver prompt notice of any Special Assessment as provided herein shall not be deemed a waiver or modification in any respect of the provisions of this Declaration, nor a release of any Owner from the obligation to pay such Special Assessment or any other Assessment.

8.4 Collection of Assessments / Failure to Pay

Each Owner shall be obligated to pay his or her Assessments to the Association on or before the due date as set forth under the Governing Documents or otherwise determined by the Board.

8.4.1 Delinquent Assessments. Any Assessment not paid when due shall be immediately deemed as delinquent, and a lien securing the obligation to pay such Assessment shall automatically attach to the Unit of the Owner(s) failing to timely pay such Assessment, including the appurtenant Limited Common Area and the exclusive use thereof, regardless of whether a written notice is recorded.

8.4.2 Late Fees and Accruing Interest. The Association's policies regarding late fees and/or accruing interest in connection with delinquent Assessment payments shall be determined by the Board and shall be set forth in the Rules and Regulations. Such policies shall be consistent with applicable laws, rules or regulations regarding the imposition of late fees and/or interest on delinquent Assessment payments.

8.4.3 Suspension of Right to Vote. At the discretion of the Board, the right of an Owner to vote on issues concerning the Association may be suspended if that Owner is delinquent in the complete payment of any Assessments, and has failed to cure or make satisfactory arrangements to cure the default after the Board has provided written notice pursuant to Subsection 8.4.4.

8.4.4 Notice of Suspension. Before suspending any Owner's right to vote, the Board shall give written notice to such Owner. The notice shall state: (A) voting rights will be suspended if payment of the Assessment is not received within three (3) business days; (B) the amount of the Assessment(s) due, including any late fees, interest, and costs of collection; and (C) that the Owner has a right to request a hearing by submitting a written request to the Board within thirty (30) calendar days from the date the notice is received. If a hearing is requested, the Owner's right to vote may not be suspended until after the hearing has been conducted and a final decision has been reached by the Board.

8.4.6 Security Deposit. Any Owner who has been late in delivering payment of his or her Assessments more than twice during any given twelve (12) month period may be required by the Board to deliver to the Association and maintain a security deposit not in excess of three (3) months of estimated Assessments, which may be collected in the same manner as other Assessments. Such deposit shall be held in a separate fund, credited to such Owner, and such deposit monies may be used by the Board whenever such Owner is more than ten (10) calendar days delinquent in paying his or her Annual Assessment or any other Assessment.

8.5 Lien / Foreclosure

8.5.1 Lien. The Association shall have a lien on the interest of the Owner(s) of the Unit for (A) any delinquent Assessment, (B) fees, charges, and costs associated with collecting any delinquent Assessment, including court costs and reasonable attorney fees, late charges, interest, and any other amount the Association is entitled to recover under the Governing Documents, the Acts, or an administrative or judicial decision, and (C) any fine the Association may impose against the Owner of such Unit, provided that (i) the time for appeal described in Subsection 6.14(f) has expired and the Unit Owner did not file an appeal; or (ii) the Owner timely filed an appeal under Subsection 6.14(f) and the district court issued a final order upholding a fine imposed under Subsection 6.14.

The provisions of this Subsection 8.5.1, and any other provisions of this Declaration related to the imposition, collection or enforcement of liens, are intended to comply with applicable provisions of the Condominium Act, as well as Utah Code Section 38-12-102 and any other laws, rules or regulations related to liens. The Association and the Board shall at all times comply with any amendments to the Condominium Act or any other applicable provisions of the Utah Code that may govern the manner in which liens are imposed, collected and/or enforced.

The recording of this Declaration constitutes record notice and perfection of the lien described in this Subsection 8.5.1. A lien under this Subsection is not subject to Utah Code Annotated Title 78B, Chapter 5, Part 5, Utah Exemptions Act, as may be amended or supplemented. If an Assessment is payable in installments, the lien described in this Subsection is for the full amount of the Assessment from the time the first installment is due, unless the Association otherwise provides in the notice of Assessment. A lien under this Subsection has priority over each other lien and encumbrance on a Unit except:

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

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

8.5.3 Foreclosure of Lien as Mortgage or Trust Deed. In order to enforce a lien for any delinquent Assessment, or any of the other fees, charges, costs or fines described under Subsection 8.5.1, the Association may cause a Unit to be sold through nonjudicial foreclosure as though the lien were a deed of trust, in the manner provided by Utah Code Annotated §57-1-24 through §57-1-27 or any other applicable law, or foreclose the lien through a judicial foreclosure in the manner provided by law for the foreclosure of a Mortgage. For purposes of a nonjudicial or judicial foreclosure, the Association is considered to be the beneficiary under a trust deed and the Owner of the Unit being foreclosed is considered to be the trustor under a trust deed. An Owner's acceptance of the Owner's interest in a Unit constitutes a simultaneous conveyance of the Unit in trust, with power of sale, to the trustee designated as provided in this Section for the purpose of securing payment of all amounts due under this Declaration and the Acts. In any such judicial or nonjudicial foreclosure, the Owner shall be required to pay the costs and expenses of such proceeding (including reasonable attorneys' fees) and such costs and expenses shall be secured by the lien being foreclosed. The Owner shall also be required to pay to the Association any Assessments against the Unit which shall become due during the period of any such judicial or nonjudicial foreclosure, and all such Assessments shall be secured by the lien being foreclosed. The Board shall have the right and power in behalf of the Association to bid in at any foreclosure sale, and to hold, lease, mortgage, or convey the subject Unit in the name of the Association.

8.5.4 Appointment of Trustee. The following sentence has been included in this Declaration as required by Subsection 57-8-10(e) of the Condominium Act: The Declarant hereby conveys and warrants pursuant to Utah Code Sections 57-1-20 and 57-8-45 to the attorney of the Association, provided that he or she is a member of the Utah State Bar, as Trustee, with power of sale, the Unit and all improvements to the Unit for the purpose of securing payment of Assessments under the terms of this Declaration.

Notwithstanding the above paragraph, if the Board elects to foreclose the lien in the same manner as foreclosures in deeds of trust, then the Owner by accepting a deed to the Unit hereby irrevocably appoints the attorney of the Association, provided that he or she is a member of the Utah State Bar, as Trustee, and hereby confers upon said Trustee the power of sale set forth with particularity in Utah Code Annotated, Section 57-1-23 (1953), as amended or supplemented. In addition, each Owner hereby transfers in trust to said Trustee all of his or her right, title and interest in and to the Unit for the purpose of securing his or her performance of the obligations set forth herein.

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

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

8.5.6 Rental Value. From the time of commencement of any action to foreclose a lien against a Unit for nonpayment of delinquent Assessments, the owner or purchaser of such Unit shall pay to the Association the reasonable rental value of the Unit to be fixed by the Board, and the plaintiff in any such foreclosure shall be entitled to the appointment of a receiver to collect the same, who may, if said rental is not paid, obtain possession of the Unit, refurbish it for rental up to a reasonable standard for rental Units in this type of condominium, rent the Unit or permit its rental to others, and apply rents first to costs of the receivership and attorney's fees thereof, then to costs of refurbishing the Unit, then to costs, fees and charges, of the foreclosure action, then to the payment of the delinquent Assessment charges.

8.5.7 One-Action Rule Inapplicable. As provided under the Acts, the one-action-rule provided in Utah Code Annotated Subsection 78B-6-901(1) shall not apply to the Association's judicial or non-judicial foreclosure of a lien for Common Expenses and/or any Assessment.

8.6 Future Lease Payments

As set forth under Section 57-8-53 of the Condominium Act, if the Owner of a Unit who is leasing the Unit fails to pay an Assessment for more than sixty (60) calendar days after the Assessment is due, the Board, upon compliance with this Section, may demand that the tenant pay to the Association all future lease payments due to the Owner, beginning with the next monthly or other periodic payment, until the amount due to the Association is paid.

8.6.1 Notice to the Owner. The Manager or Board shall give the Owner written notice of its intent to demand full payment from the tenant. The notice shall: (A) provide notice to the tenant that full payment of the remaining lease payments, beginning with the next monthly

payment unless the Assessment is received within fifteen (15) days from the date of the notice, must be paid directly to the Association at the following address: (address to which payment should be mailed, payment must go to the attorney if the account has been turned over for collection); (B) state the amount of the Assessment due, including any interest or late payment fee; and (C) state that any costs of collection, and other Assessments that become due, may be added to the total amount due.

8.6.2 Notice to the Tenant. If the Owner fails to pay the Assessment due by the date specified in the notice described in Subsection 8.6.1, the Manager or Board may deliver written notice to the tenant that demands future payments due to the Owner be paid to the Association. The Manager or Board shall mail a copy of the notice to the Owner. The notice shall state: (A) that due to the Owner's failure to pay the Assessment within the time period allowed, the Owner has been notified of the intent of the Board of Directors to collect all lease payments due to the Association; (B) that until notification by the Association that the Assessment due, including any interest, collection cost, or late payment fee, has been paid, the tenant shall pay to the Association all future lease payments due to the Owner; and (C) that payment by the tenant to the Association in compliance with this Section will not constitute a default under the terms of the lease agreement.

8.6.3 All funds paid to the Association pursuant to this Section shall be deposited in a separate account and disbursed to the Association until the Assessment due is paid in full. Any remaining balance shall be paid to the Owner within five (5) business days after payment in full to the Association.

8.6.4 Within five (5) business days after payment in full of the Assessment, including any interest, late payment fee, and costs of collection, the Manager or Board shall notify the tenant in writing that future lease payments are no longer due to the Association. The Association shall mail a copy of the notification to the Owner.

8.6.5 If, as described under this Section 8.6, the Association receives lease payments for a particular Unit that are otherwise due and payable to the Owner of that Unit, the Association shall not assume any obligations, responsibilities or liabilities as the "landlord" of the Unit. The Owner shall continue to assume any and all of the Owner's obligations, responsibilities or liabilities as the Owner/landlord of the Unit.

8.7 Reassessment of Delinquent Assessments

In the event that all or part of any Assessment (including any Annual Assessment or Special Assessment) or any other expenses of the Board cannot be promptly collected from the Owners or any other persons or entities liable for the payment of such Assessments or expenses pursuant to the Acts or the Governing Documents, the Board shall have the right and authority to apply and reassess and reallocate such uncollected Assessments or expenses to all Owners as a Common Expense, without prejudice to the Board's right and authority to the collection of such uncollected Assessments or expenses from the Owners or any other persons or entities liable for their payment.

8.8 Remedies Cumulative

The remedies provided to the Association under this Article 8 are cumulative and the Association may pursue any such remedies concurrently, as well as any other remedies which may be available under law although not expressed herein.

ARTICLE 9 – COMPLIANCE AND ENFORCEMENT

9.1 Enforcement

Each Owner shall comply with the provisions of the Governing Documents, as the same may be lawfully amended from time to time, and with all decisions adopted pursuant to the Governing Documents. Failure to comply shall be grounds for an action to recover sums due for damages, or injunctive relief, or both, maintainable by the Board on behalf of the Owners, or by the aggrieved Owner on his or her own. Reasonable fines may be levied and collected as an Assessment for violations of the Governing Documents. A schedule of fines may be adopted by the Board specifying the amounts of such fines, and any other provisions or procedures related to the levying of such fines.

The Association shall be entitled to an award of its attorneys' fees and costs in any action taken for the purpose of enforcing or otherwise implementing the terms of the Governing Documents, or for any action taken pursuant to the Governing Documents, if it prevails in such action, regardless of who instituted the action.

9.2 Remedies

Violation of any provisions of the Governing Documents, or of any decision of the Association made pursuant to such Governing Documents, shall give the Board, acting on behalf of the Association, the right, but not the obligation, in addition to any other rights set forth in the Governing Documents, or under law, to do, any or all of the following after giving notice:

(a) To enjoin, abate, or remedy any hazardous or dangerous thing or condition by appropriate legal proceeding (this Subsection 11.2(a) shall not require that the Board or the Manager pursue judicial proceedings prior to accessing a Unit or Limited Common Area to perform emergency or non-emergency maintenance, repair or replacement of Common Area or Common Improvements as provided under Section 5.5);

(c) To levy reasonable fines pursuant to a list of fines that has been adopted and published by the Board;

(d) To terminate the right of access to and use of certain Common Improvements (including, for example and without limitation, recreational Common Improvements) until correction of the violation has occurred (provided, however, that a defaulting Owner may not be prohibited from using parking areas located within the Project);

(e) To suspend the voting rights of any Owner, after notice and an opportunity to request a hearing, for any infraction of any of the published Rules and Regulations of the Association or the Governing Documents, including failure to timely pay an Assessment; and/or

(f) Bring suit or action against the Owner on behalf of the Association and other Owners to enforce this Declaration, the Bylaws and any Rules or Regulations adopted pursuant thereto.

9.3 Action by Owners

Subject to any limitations that may be imposed under this Declaration, the Bylaws or applicable Utah law, an aggrieved Owner may bring an action against any other Owner or the Association to recover damages or to enjoin, abate, or remedy such thing or condition by appropriate legal proceedings.

9.4 No Waiver of Strict Performance

The failure of the Board in any one or more instances to insist upon the strict performance of any of the terms, covenants, conditions or restrictions of the Governing Documents, or to exercise any right or option contained in such documents, or to serve any notice or to institute any action, shall not be construed as a waiver or a relinquishment for the future of such term, covenant, condition or restriction, but such term, covenant, condition or restriction shall remain in full force and effect. The receipt by the Board of any Assessment from an Owner, with knowledge of any such breach shall not be deemed a waiver of such breach, and no waiver by the Board of any provision hereof shall be deemed to have been made unless expressed in a writing that has been signed by the Board.

ARTICLE 10 – INSURANCE

10.1 Association Insurance Coverage

The Association shall maintain, to the extent reasonably available using typical insurance carriers and markets, (a) property insurance on the physical structures in the Project, including the Common Areas, Limited Common Areas, and the Units, insuring against all risks of direct physical loss commonly insured against, including fire and extended coverage perils, and (b) liability insurance, including medical payments insurance covering all occurrences commonly insured against for death, bodily injury, and property damage arising out of or in connection with the use, ownership, or maintenance of the Common Areas. If the Association becomes aware that property insurance or liability insurance is not reasonably available, the Association shall, within seven (7) calendar days after becoming aware, give all Owners notice that the insurance is not reasonably available.

10.1.1 Property Insurance. The Association shall at all times maintain in force property insurance meeting the following requirements:

(a) Hazard Insurance. A multi-peril type policy shall be maintained by the Association covering the entire Project (including both Units and Common Areas), including, without limitation, all fixtures, machinery, equipment and supplies maintained for the service of the Project, and all fixtures, improvements, alterations, equipment and betterments within the individual Units and the Common Areas, including, without limitation, those installed by any Owner. Such policy shall provide coverage against loss or damage by fire and other hazards covered by the standard extended coverage blanket “all risk” endorsement and by debris removal, cost of demolition, vandalism, malicious mischief, windstorm, water damage, and such other risks as customarily are covered with respect to condominium projects similar to the Project in construction, location, and use. As a minimum, such policy shall provide coverage on a replacement cost basis in an amount not less than that necessary to comply with any co-insurance percentage specified in the policy, but not less than one hundred percent (100%) of the full insurable value of the Project (based upon replacement cost). At the option of the Association, funds for insurance deductibles may be included in the Association’s Reserve Fund and, if included, shall be so designated. Such policy shall include an “Agreed Amount Endorsement” or its equivalent and, if necessary or appropriate, an “Increased Cost of Construction Endorsement” or its equivalent. As required under Section 57-8-43(9)(c) of the Condominium Act, such policy shall include coverage for any fixture, improvement, or betterment installed by an Owner to a Unit or to a Limited Common Area, including: floor covering, cabinetry, light fixture, electrical fixture, heating or plumbing fixture, paint, wall covering, window, and any other item permanently part of or affixed to a Unit or to appurtenant Limited Common Area. As set forth under Section 57-8-43(9)(e) of the Condominium Act, Each Owner shall be an insured person under the policy of property insurance.

(b) Flood Insurance. If any part of the Condominium Project is or comes to be situated in a Special Flood Hazard Area as designated on a Flood Insurance Rate Map, a policy of flood insurance shall be maintained covering the Project, or, at a minimum, that portion of the Condominium Project located within the Special Flood Hazard Area. That policy shall cover any machinery and equipment that are not part of a building and all Common Area within the Condominium Project (“**Insurable Property**”) in an amount deemed appropriate, but not less than the lesser of: (i) the maximum limit of coverage available under the National Flood Insurance Program for the Insurable Property within any portion of the Project located within a designated flood hazard area; or (ii) one hundred percent (100%) of the insurable value of the Insurable Property. If the Condominium Project is not situated in a Special Flood Hazard Area, the Association may nonetheless, in the discretion of the Board, purchase flood insurance to cover water and flooding perils not otherwise covered by blanket property insurance.

(c) Name of the Insured. The named insured under each policy required to be maintained under Subsections 10.1.1(a) and 10.1.1(b) shall be in form and substance essentially as follows: “_____ , a Utah nonprofit corporation, for the use and benefit of the individual Owners.” Each Owner shall also be an insured under all property and Comprehensive General Liability (“**CGL**”) insurance policies.

(d) Election to Restore in Lieu of Cash Settlement. Each such policy shall provide that, notwithstanding any provision thereof which gives the carrier the right to elect to restore damage in lieu of making a cash settlement, such option shall not be exercisable if it is in conflict with any requirement of law or without the prior written approval of the Association.

(e) Association's Policy to Provide Primary Coverage. As set forth under Section 57-8-43(9)(f) of the Condominium Act, if a loss occurs that is covered by a property insurance policy in the name of the Association and another property insurance policy in the name of an Owner, the Association's policy shall provide primary insurance coverage. Notwithstanding the previous sentence, and subject to Subsection 10.1.1(f), the Owner is responsible for the Association's policy deductible and the Owner's policy and building property coverage, often referred to as coverage A, of the Owners' policy applies to that portion of the loss attributable to the deductible of the Association's policy.

(f) Covered Loss/Unit Damage. As set forth under Section 57-8-43(9)(g) of the Condominium Act, An Owner that has suffered damage to any combination of a Unit or a Limited Common Area appurtenant to a Unit ("**Unit Damage**") as part of a loss, resulting from a single event or occurrence, that is covered by the Association's property insurance policy ("**Covered Loss**") is responsible for an amount calculated by applying the percentage of total damage resulting in a Covered Loss that is attributable to Unit Damage ("**Unit Damage Percentage**") for that Unit to the amount of the deductible under the Association's property insurance policy. If an Owner does not pay the amount equal to the Unit Damage Percentage within thirty (30) days after substantial completion of the repairs to, as applicable, the Unit or the appurtenant Limited Common Area, the Association may levy an assessment against the Owner for such amount.

(g) Association's Reserve Fund. As set forth under Section 57-8-43(9)(h) of the Condominium Act, the Association shall set aside in the Association's Reserve Fund an amount equal to the amount of the Association's property insurance deductible or \$10,000, whichever is less.

(h) Notice Requirement for Deductible. As set forth under Section 57-8-43(9)(i) of the Condominium Act, the Association shall provide notice (in accordance with Section 57-8-42 of the Condominium Act) to each Owner of the Owner's obligations under Section 10.1.1(f) of this Declaration regarding to the Association's policy deductible and of any change in the amount of the deductible. If the Association fails to provide such notice of any increase in the deductible, it shall be responsible for paying any increased amount that would otherwise have been assessed to the Owner but only to the extent that the unit owner does not have insurance coverage that would otherwise apply. If the Association provides an Owner with notice of the Association's policy deductible, but fails to provide notice of a later increase in the amount of the deductible, the Association shall only be responsible for the amount of the increase for which notice was not provided. The Association's failure to provide notice shall not invalidate or affect any other provision in this Declaration.

(g) Association's Right to Not Tender Claims that are Under the Deductible. As set forth under Section 57-8-43(9)(j) of the Condominium Act, if, in the exercise of its business judgment, the Board determines that a claim is likely not to exceed the Association's property insurance policy deductible: (a) an Owner's policy is considered the policy for primary coverage for a loss occurring to the Owner's Unit or to any appurtenant Limited Common Area or Limited Common Improvements; (b) the Association is responsible for any covered loss to any Common Areas and Common Improvements; (c) an Owner who does not have a policy to cover the Association's property insurance policy deductible is responsible for the loss to the amount of the Association's policy deductible; and (d) the Association need not tender the claim to the Association's insurer.

(i) Insurance Trustee. As set forth under Section 57-8-43(9)(k) of the Condominium Act, an insurer under a property insurance policy issued to the Association shall adjust with the Association a loss covered under the Association's policy. Notwithstanding the above, the insurance proceeds for a loss under a property insurance policy of the Association are payable to an Insurance Trustee that the Association designates or, if no Insurance Trustee is designated, to the Association, and may not be payable to a holder of a security interest. An Insurance Trustee or the Association shall hold any insurance proceeds in trust for the Association, the Owners, and lien holders. Insurance proceeds shall be disbursed first for the repair or restoration of the damaged property. After such disbursements are made and the damaged property has been completely repaired or restored or the project terminated, any surplus proceeds are payable to the Association, the Owners, and lien holders.

(j) Certificate of Insurance. As set forth under Section 57-8-43(9)(l) of the Condominium Act, an insurer that issues a property insurance policy under this Section, or the insurer's authorized agent, shall issue a certificate or memorandum of insurance to the Association, an Owner, and a holder of a security interest, upon the Association's, an Owner's or the holder's written request.

(h) Cancellation or Nonrenewal Subject to Procedures. As set forth under Section 57-8-43(9)(m) of the Condominium Act, any cancellation or nonrenewal of a property insurance policy is subject to the procedures stated in Utah Code Annotated § 31A-21-303.

(i) Waiver of Liability. As set forth under Section 57-8-43(9)(n) of the Condominium Act, The Association and Board that acquires from an insurer the property insurance required in this Section is not liable to Owners if the insurance proceeds are not sufficient to cover 100% of the full replacement cost of the insured property at the time of the loss.

10.1.2 Fidelity Insurance. The Association shall obtain insurance covering the theft or embezzlement of funds that shall: (1) provide coverage for an amount of not less than the sum of three (3) months' regular Assessments in addition to the prior calendar year's highest monthly balance on all operating and reserve funds, and (2) provide coverage for acts of theft or embezzlement of funds by: (a) officers and Board Members of the Association, (b) employees and volunteers of the Association, (c) any manager of the Association, (d) officers, directors, the Manager and any employees of the Manager, and (e) any other parties coverage for various including cybercrimes, theft or embezzlement of funds.

10.1.3 Insurance Coverage for Forgery, Alteration and Computer Crime. The Association shall also maintain in force coverage against forgery and alteration and computer crime insurance with a limit to be reasonably determined by the Board. The discovery period for all claims under such insurance policy shall be when the wrongful acts covered by such insurance policy are discovered by the Association unless otherwise disclosed and approved by the Board.

10.1.4 Directors and Officers Insurance. The Association shall obtain Directors' and Officers' liability insurance protecting the Board, the officers and their spouses, and the Association against claims of wrongful acts or prior acts, mismanagement, failure to maintain adequate reserves, failure to maintain books and records, failure to enforce the Governing Documents, and breach of contract (if available). This policy shall: (1) include coverage for volunteers and employees, (2) include coverage for monetary and non-monetary claims, and (3) provide for the coverage of claims made under any fair housing act or similar statute or that are based on any form of discrimination or civil rights claims. In the discretion of the Board, the policy may also include coverage for the Manager and any employees of the Manager.

10.1.5 Comprehensive General Liability Insurance. The Association shall obtain CGL insurance insuring the Association, the agents and employees of the Association, and the Owners, against liability incident to the use, ownership or maintenance of the Common Area or membership in the Association. The coverage limits under such policy shall not be less than Two Million Dollars (\$2,000,000.00) covering all claims for death of or injury to any one person or property damage in any single occurrence. Such insurance shall contain a Severability of Interest Endorsement or equivalent coverage which should preclude the insurer from denying the claim of an Owner because of the negligence acts of the Association or another Owner.

10.1.6 Worker's Compensation. The Association shall purchase and maintain in effect workers' compensation insurance for all employees of the Association to the extent that such insurance is required by law and as the Board deems appropriate.

10.1.7 Association Personal Property. The Association may, as reasonably determined by the Board, elect to maintain insurance against loss of personal property of the Association by fire, theft and other losses with deductible provisions as the Board deems advisable.

10.1.8 Insurance Trustees; Power of Attorney. Notwithstanding any of the foregoing provisions and requirements relating to property or liability insurance, there may be named as an insured, on behalf of the Association, the Association's authorized representative, including any trustee with whom the Association may enter into any Insurance Trust Agreement or any successor to such trustee (each of whom shall be referred to herein as the "**Insurance Trustee**"), who shall have exclusive authority to negotiate losses under any policy providing such property or liability insurance and to perform such other functions as are necessary to accomplish this purpose. Insurance proceeds for a loss under the Association's property insurance policy are payable to an Insurance Trustee if one is designated, or to the Association, and shall not be payable to a holder of a security interest. An Insurance Trustee, if any is appointed, or the Association shall hold any insurance proceeds in trust for the Association, Owners, and lien holders. Insurance proceeds shall be disbursed first for the repair or restoration of the damaged property, if the property is to be repaired and restored as provided for in this Declaration. After

any repair or restoration is complete and if the damaged property has been completely repaired or restored, any remaining proceeds shall be paid to the Association. If the property is not to be repaired or restored, then any remaining proceeds after such action as is necessary related to the property has been paid for, shall be distributed to the Owners and lien holders, as their interests remain with regard to the Units. Each Owner hereby appoints the Association, or any Insurance Trustee, or substitute Insurance Trustee designated by the Association, as attorney-in-fact for the purpose of negotiating all losses related thereto, including the collection, receipt of, and appropriate disposition of all insurance proceeds; the execution of releases of liability; and the execution of all documents and the performance of all other acts necessary to administer such insurance and any claim. This power-of-attorney is coupled with an interest, shall be irrevocable, and shall be binding on any heirs, personal representatives, successors, or assigns of the Owner.

10.1.9 Qualifications of Insurance Carriers & General Coverage Requirements. The Association shall use generally acceptable insurance carriers that meet the specific requirements of FHLMC and FNMA if such corporations are holders of Mortgages on Units within the Project (See the FNMA Conventional Home Mortgage Selling Contract Supplement and the FHLMC Sellers Guide for specific requirements regarding the qualifications of insurance carriers). Notwithstanding anything herein contained to the contrary, insurance coverages required to be obtained hereunder must be in such amounts and meet other requirements of FNMA, FHLMC, FHA and the Department of Veterans Affairs if such entities are holders of Mortgages on Units within the Project.

10.1.10 Waivers of Subrogation. As set forth under Section 57-8-43(7) of the Condominium Act, an insurer under a property insurance policy or liability insurance policy obtained under this Article waives the insurer's right to subrogation under the policy against any person residing with the Owner, if the Owner resides in the Unit, and the Unit Owner. All property and CGL policies must contain a waiver of subrogation by the insurer as to any claims against the Association and the Owners and their respective agents and employees.

10.1.11 Owner Act Cannot Void Coverage Under Any Policy. As set forth under Section 57-8-43(6) of the Condominium Act, unless an Owner is acting within the scope of the Owner's authority on behalf of the Association and under direct authorization of the Association, an Owner's act or omission may not void any insurance policy obtained by the Association or be a condition to recovery under such policy.

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

10.1.13 Review of Insurance. The Board shall annually review (or cause a review) of the coverage and policy limits of all insurance on the Project and 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 by such other qualified appraisers as the Association may select.

10.1.14 Applicable Law. This Declaration is specifically subjecting the Association to the insurance requirements required by Utah Code Section 57-8-43, and any amendments thereto and thereafter enacted by law. It is the intent of this provision that the Association and the Owners shall comply with any future changes to the insurance requirements of Utah Code Section 57-8-43.

10.2 Owner Insurance Coverage

10.2.1 Owner Insurance. Each Owner shall obtain additional insurance covering such Owner's Unit at his or her own expense; no Owner shall, however, be entitled to exercise his or her right to maintain insurance coverage in any manner which would decrease the amount which the Board, or any trustee for the Board, on behalf of all of the Owners, will realize under any insurance policy which the Board may have in force on the Unit at any particular time. Each Owner is required to and agrees to notify the Board of all improvements by the Owner to his Unit the value of which is in excess of One Thousand Dollars (\$1,000). Any Owner who obtains individual insurance policies covering any portion of the Unit other than personal property belonging to such Owner is hereby required to file a copy of such individual policy or policies with the Board within thirty (30) calendar days after purchase of such insurance, whereupon the Board may review its effect with the Board's insurance broker, agent or carrier.

10.2.2 Homeowner's Policy. The Owner of each Unit must maintain a homeowner's policy (commonly referred to as an HO6 policy) or other appropriate liability policy for such Unit in addition to the coverage provided by the Association. Each Owner is primarily responsible to maintain, repair, replace and insure items that are a part of his or her Unit. Claims for damage from loss caused by fire, water damage or other hazards that: (A) originate within the Unit, (B) are caused by accident or negligence of the Unit's Owner, including his or her tenants, family members, guests or invitees and/or (C) are caused by items that are the Owner's responsibility to maintain, repair or replace are the Owner's responsibility to insure. Each Owner is required to maintain hazard insurance for such events.

10.2.3 Coverage Details. Insurance coverage for each Owner should include but is not limited to the following:

(1) Anything to the contrary notwithstanding, the insurance coverage of any Unit shall be primary for any covered loss and the insurance of the Association shall be secondary for a loss that originates within the Unit, or is caused by accident or negligence of the Unit's Owner, their renters or guests, or caused by items that are the responsibility of the Unit's Owner(s) to maintain, repair or replace. All Owners shall have on their personal homeowner's policy (or other applicable coverage if Unit is rented to others or is vacant, etc.) a minimum of \$20,000 for COVERAGE "A" (BUILDING) added to their individual insurance policy and not less than \$100,000 for liability coverage (each Owner should consult with his or her insurance agent regarding the amount of coverage needed above the minimum for his or her individual situation).

If an Owner fails to maintain insurance on his or her Unit, such Owner will still be responsible for any claim arising from losses that originate within their Unit and/or from items that are their responsibility to maintain, repair or replace, including any improvement

which is a permanent part of their Unit. In the event a claim is filed on the Association policy involving a Unit, the Owner(s) of such Unit shall be solely responsible to pay the Association deductible. If a Unit is owned by more than one Owner, the Owners shall be jointly and severally responsible for the payment of such deductible.

(2) Insurance protection for Personal Property (Contents), Personal Liability, Loss Assessment, Loss of Use, Flood, Earthquake and other applicable coverage is the sole responsibility of the Unit's Owner. Insurance coverage for the Unit is commonly obtained by purchasing a Homeowners Form 6 (HO6) policy. However, each Owner is solely responsible for ensuring that such policy provides adequate insurance coverage. Such policy shall provide that it does not diminish the insurance carrier's coverage for liability arising under insurance policies obtained by the Association pursuant to this Section.

10.2.4 Changes to Owner Insurance Requirements. The Board may (but shall not be obligated to) periodically review the coverage and policy recommendations and requirements for Owners, including such recommendations and requirements as may be set forth under any amendments to the Condominium Act, and notify the Owners of any changes to such coverage or policy recommendations or requirements. However, each Owner shall at all times be solely responsible for maintaining the appropriate insurance coverage on his or her Unit including, without limitation, any changes to such insurance coverage as may be recommended or required pursuant to any amendments to the Condominium Act.

ARTICLE 11 – EASEMENTS

11.1 In General

It is intended that in addition to rights under the Acts, each Unit has an easement in and through each other Unit and the Common and Limited Common Areas for all support elements and utility, wiring, heat/air conditioning and service elements, and for reasonable access thereto, as required to effectuate and continue proper operation and maintenance of the Project. Without limiting the generality of the foregoing, each Unit and all Common Areas (including Limited Common Areas) are specifically subject to an easement for the benefit of each of the other Units in the Building for all ductwork for the any Units with flues or chimneys. In addition, each Unit and all the Common Areas (including Limited Common Areas) are specifically subject to easements as may be required for intercom and electrical entry systems, for electrical wiring and plumbing, for heating/air conditioning lines and equipment, if any, for each Unit, and for any master antenna, satellite or cable system for use by more than one Owner. The specific mention or reservation of any easement in this Declaration does not limit or negate the general easement for common facilities reserved by law.

11.2 Association Functions

There is hereby reserved to the Association, or the Association's duly authorized agents and representatives, such easements as are necessary to perform the duties and obligations of the Association as set forth in the Governing Documents.

11.3 Encroachments

Each Unit and all Common Areas (including Limited Common Areas) are hereby declared to have an easement over all adjoining Units, Common Areas and Limited Common Areas for the purpose of accommodating any encroachment due to engineering errors, errors in original construction, settlement or shifting of the Building, or any other similar cause, and any encroachments due to Building overhang or projection. There shall be valid easements for the maintenance of said encroachments so long as they shall exist, and the rights and obligations of Owners shall not be altered in any way by said encroachment, settling or shifting; provided, however, that in no event shall a valid easement for encroachment be created in favor of any Owner(s) if said encroachment occurred due to the willful act or acts with full knowledge of said Owner(s). In the event a Unit or Common Area or Limited Common Area is partially or totally destroyed, and then repaired or rebuilt, the Owners agree that minor encroachments over adjoining Units, Common Areas and Limited Common Areas shall be permitted, and that there shall be valid easements for the maintenance of said encroachments so long as they shall exist. The foregoing encroachments shall not be construed to be encumbrances affecting the marketability of title to any Unit.

ARTICLE 12 – DESTRUCTION, CONDEMNATION, AND OBSOLESCENCE

The following provisions shall apply with respect to the destruction, condemnation, or obsolescence of the Project.

12.1 Definitions

For the purposes of this Article 12, each of the following terms shall have the meaning indicated:

(a) “**Available Funds**” shall mean any proceeds of insurance, condemnation awards, payments in lieu of condemnation, and any uncommitted funds of the Board or Association. Available Funds shall not include that portion of insurance proceeds legally required to be paid to any party other than the Association, including a Mortgagee, or that portion of any condemnation award or payment in lieu of condemnation payable to the Owner or Mortgagee for the condemnation or taking of the Unit in which they are interested.

(b) “**Estimated Cost of Restoration**” shall mean the estimated costs of restoring the Project to its former condition.

(c) “**Partial Condemnation**” shall mean any other such taking by eminent domain or grant or conveyance in lieu thereof.

(d) “**Partial Destruction**” shall mean any other damage or destruction to the Project or any part thereof.

(e) “**Partial Obsolescence**” shall mean any state of obsolescence or disrepair which does not constitute Substantial Obsolescence.

(f) “**Substantial Condemnation**” shall exist whenever a complete taking of the Project or a partial taking of the Project has occurred under eminent domain or by grant or conveyance in lieu of condemnation, and the excess of the Estimated Cost of Restoration over the funds available is twenty-five percent (25%) or more of the estimated restored value of the Project.

(g) “**Substantial Destruction**” shall exist whenever, as a result of any damage or destruction to the Project or any part thereof, the excess of the Estimated Cost of Restoration over the funds available is twenty-five percent (25%) or more of the estimated restored value of the Project.

(h) “**Substantial Obsolescence**” shall exist whenever the Project or any part thereof has reached such a state of obsolescence or disrepair that the excess of the Estimated Cost of Restoration over the funds available is twenty-five percent (25%) or more of the estimated restored value of the Project.

(i) “**Restoration**” shall mean restoring the Project to its former condition.

(j) “**Restored Value**” shall mean the fair market value of the Project after Restoration as determined by an MAI or other qualified appraisal.

12.2 Determination by Board

Upon the occurrence of any damage or destruction to the Project or any part thereof, or upon a complete or partial taking of the Project under eminent domain or by grant or conveyance in lieu thereof, the Board shall make a determination as to whether the excess of Estimated Cost of Restoration over Available Funds is twenty-five percent (25%) or more of the estimated Restored Value of the Project. In addition, the Board shall, from time to time, review the condition of the Project to determine whether Substantial Obsolescence exists. In making such determinations the Board may retain and rely upon one or more qualified appraisers or other professionals.

12.3 Restoration of the Project

Restoration of the Project shall be undertaken by the Board promptly without a vote of the Owners in the event of Partial Destruction, Partial Condemnation, or Partial Obsolescence and shall also be undertaken in the event of Substantial Destruction, Substantial Condemnation, or Substantial Obsolescence unless the failure to make Restoration is consented to by Owners collectively holding at least sixty-seven percent (67%) of the Percentage Interest, and is further consented to by Mortgagees holding at least fifty-one percent (51%) of the Percentage Interest of Units which are subject to Mortgages held by Eligible Mortgagees.

12.4 Notices of Destruction or Obsolescence

Within thirty (30) calendar days after the Board has determined that Substantial Destruction, Substantial Condemnation, or Substantial Obsolescence exists, it shall send to each Owner and Eligible Mortgagee a written description of the destruction, condemnation, or state of obsolescence involved, shall take appropriate steps to ascertain the preferences of the Eligible Mortgagees concerning Restoration, and shall, with or without a meeting of the Owners (but in any event in accordance with the applicable provisions of this Declaration), take appropriate steps to determine the preferences of the Owners regarding Restoration.

12.5 Excess Insurance

In the event insurance proceeds, condemnation awards, or payments in lieu of condemnation actually received by the Board or Association (collectively, the “**Excess Insurance Funds**”) exceed the cost of Restoration when Restoration is undertaken, the Excess Insurance Funds may be deposited into the Reserve Fund pursuant to a majority vote of the Board. In the event a majority of the Board fails to approve the deposit of the Excess Insurance Funds into the Reserve Fund, such Excess Insurance Funds shall be paid and distributed to the Owners in proportion to their respective Percentage Interest. Payment to any Owner whose Unit is the subject of a Mortgage shall be made jointly to such Owner and the interested Mortgagee.

12.6 Inadequate Insurance

If the cost of Restoration exceeds available funds, the Board may elect to levy a Special Assessment in accordance with Article 8 to pay for the deficiency.

12.7 Reallocation in Event of Partial Restoration

In the event that all or any portion of one or more Units will not be the subject of Restoration (even though the Project will continue as a condominium project) or is taken in a condemnation proceeding or pursuant to any agreement in lieu thereof, the Percentage Interest shall be immediately reallocated to the remaining Units.

12.8 Sale of Project

Unless Restoration is accomplished as set forth above, the Project may be sold in the event of Substantial Destruction, Substantial Condemnation, or Substantial Obsolescence. In the event of such sale, condominium ownership under this Declaration and the Plat Map shall terminate and the proceeds of sale and any Available Funds shall be distributed by the Board to the Owners in proportion to their respective Percentage Interest. Payment to any Owner whose Unit is then the subject of a Mortgage shall be made jointly to such Owner and the interested Mortgagee.

12.9 Authority of Board to Represent Owners in Condemnation or to Restore or Sell

The Board, as attorney-in-fact for each Owner, shall represent all of the Owners and the Association in any condemnation proceeding or in negotiations, settlements, and agreements with the condemning authority for the acquisition of all or any part of the Common Areas.

12.10 Settlement Proceeds

The award in any condemnation proceeding and the proceeds of any settlement related thereto shall be payable to the Association for the use and benefit of the Owners and their Mortgagees as their interests may appear.

12.11 Restoration Power

The Board, as attorney-in-fact for each Owner, shall have and is hereby granted full power and authority to restore or to sell the Project and each Unit therein whenever Restoration or sale, as the case may be, is undertaken as hereinabove provided. Such authority shall include the right and power to enter into any contracts, deeds or other instruments which may be necessary or appropriate for Restoration or sale, as the case may be.

12.12 Termination of Legal Status

Any action to terminate the legal status of the Project after Substantial Destruction or Condemnation occurs shall be agreed to by Owners who represent at least sixty-seven percent (67%) of the total allocated votes in the Association and by Eligible Mortgagees who represent at least fifty-one percent (51%) of the votes of the Units that are subject to Mortgages held by Eligible Mortgagees.

The termination of the legal status of the Project for reasons other than Substantial Destruction or Condemnation of the Project shall be agreed to by Eligible Mortgagees that represent at least sixty-seven percent (67%) of the votes of the mortgaged Units. However, implied approval may be assumed when an Eligible Mortgagee (except, where appropriate, the Federal Housing Administration of the United States Department of Housing and Urban Development (FHA), the Federal Home Loan Mortgage Corporation (FHLMC), the Federal National Mortgage Association (FNMA), Government National Mortgage Association (GNMA) or the Department of Veteran Affairs (VA)) fails to submit a response to any written proposal for an amendment within thirty (30) calendar days after it receives proper notice of the proposal, provided the notice was delivered by certified or registered mail, with a "return receipt" requested.

ARTICLE 13 – LIMITATION OF LIABILITY

13.1 Liability for Utility Failure, etc.

Except to the extent covered by insurance obtained by the Board pursuant to Article 10, neither the Association nor the Board shall be liable for: any failure of any utility or other service to be obtained and paid for by the Board; or for injury or damage to person or property caused by the elements, or resulting from electricity, water, rain, snow, ice, dust or sand which may lead or flow from outside or from any parts of the Buildings, or from any of its pipes, drains, conduits, appliances, or equipment, or from any other place; or for any inconvenience or discomfort resulting from any action taken to comply with any law, ordinance or orders of a governmental authority. No diminution or abatement of common expense Assessments shall be claimed or allowed for any such utility or service failure, or for such injury or damage, or for such inconvenience or discomfort.

13.2 No Personal Liability

So long as a Board member, or Association committee member, or Association officer has acted in good faith, without malicious, willful, or intentional misconduct, upon the basis of such information as may be possessed by such person, then no such person shall be personally liable to any Owner, or to any other party, including the Association, for any damage, loss or prejudice suffered or claimed on account of any act, omission, error or negligence of such person; provided, that this Section shall not apply where the consequences of such act, omission, error or negligence are covered by insurance obtained by the Board pursuant to Article 10.

13.3 Indemnification of Board Members

Each Board member or Association committee member, or Association officer shall be indemnified by the Owners against all expenses and liabilities, including attorney's fees, reasonably incurred by or imposed in connection with any proceeding to which he or she may be a party, or in which he or she may become involved, by reason of holding or having held such a position, or any settlement thereof, whether or not he or she holds such position at the time such expenses or liabilities are incurred except in such cases wherein such person is adjudged (by a court of competent jurisdiction) guilty of malicious, willful, or intentional misconduct in the performance of his or her duties; provided, that, in the event of a settlement, the indemnification shall apply only when the Board approves such settlement and reimbursement as being in the best interests of the Association.

ARTICLE 14 – MORTGAGEE PROTECTION

14.1 Priority of Mortgages

Notwithstanding all other provisions hereof and as provided in the Acts, the liens created under this Declaration upon any Unit for Assessments shall be subject to the rights of the secured party in the case of any indebtedness secured by mortgages or deeds of trust which were made in good faith and for value upon the Unit. Where any Mortgagee of any Unit or other purchaser of

a Unit obtains possession of or title to a Unit as a result of mortgage foreclosure or deed of trust sale, such possessor or holder of title and his successors and assigns, shall not be liable for the share of the Common Expenses or Assessments by the Association chargeable to such Unit which become due prior to such possession or taking of title, but will be liable for the Common Expenses and Assessments accruing after such possession or taking of title. Such unpaid share of Common Expenses or Assessments shall be deemed to be Common Expenses collectible from all of the Owners including such possessor, title holder, and successor and assigns.

14.2 Abandonment of Condominium Status

Except when acting pursuant to the provisions of the Acts involving damage, destruction, or condemnation, the Association shall not, without consent of all institutional first mortgagees and institutional first deed of trust beneficiaries of any Unit, seek to abandon the condominium status of the Project.

14.3 Partitions and Subdivision

The Association shall not partition or subdivide any Unit, or any Common Area (including any Limited Common Area), nor accept any proposal so to do, without the prior approval of all institutional first mortgagees or institutional first deed of trust beneficiaries of the Unit being subdivided or partitioned.

14.4 Change in Percentages

The Association shall not change the Percentage Interest without the prior approval of all institutional first mortgagees or institutional first deed of trust beneficiaries of the Units for which the Percentage Interests would be changed.

14.5 Copies of Notices

In the event the Association gives to any Owner of a Unit any notice that such Owner for more than thirty (30) calendar days failed to meet any obligation under the Governing Documents, it shall also give a copy of such notice to any institutional first mortgagee or institutional first deed of trust beneficiary which has requested to be so notified.

14.6 Effect of Declaration Amendments

No amendment of this Declaration shall be effective to modify, change, limit or alter the rights expressly conferred upon Mortgagees with respect to any unsatisfied mortgage duly recorded unless the amendment shall be consented to in writing by the holder of such mortgage.

14.7 Insurance

Where the Mortgagee of a Unit has filed a written request with the Board, the Board shall:

14.7.1 Furnish the Mortgagee with a copy of any insurance policy or evidence thereof which is intended to cover the Unit on which such Mortgagee has a lien;

14.7.2 Require any insurance carrier to give such Mortgagee at least ten (10) business days written notice before cancelling any insurance with respect to such property on which Mortgagee has a lien;

14.7.3 Not make any settlement of any insurance claims for loss or damage to any such Unit exceeding \$2,500 without the approval of such Mortgagee; provided that the withholding of such approval shall not be unreasonable or in conflict with the provisions of this Article 14.

15.7.4 Give the Mortgagee written notice of any loss or taking affecting Common Areas, if such loss or taking exceeds \$10,000.

14.8 Inspection of Books

Institutional first mortgagees and institutional deed of trust beneficiaries shall be entitled to inspect the books and records of the Association during reasonable hours of weekdays provide that such Institutional first mortgagees and institutional deed of trust beneficiaries have provided the Board with written notice no later than five (5) business days prior to such inspection.

14.9 Mortgagee Approval

Unless a Mortgagee provides the Association with written notice of its objection, if any, to a proposed amendment or action requiring the approval of a Mortgagee within sixty (60) calendar days following the receipt of notice of such proposed amendment or action, the Mortgagee will be conclusively deemed to have consented to or approved the proposed amendment or action.

ARTICLE 15 – CONTRACTION/EXPANSION OF PROJECT

The Project has been completed in its entirety. Accordingly, the Project may not be contracted or expanded in any manner whatsoever unless this Declaration is properly amended to allow for such contraction or expansion.

ARTICLE 16 – AMENDMENT OR SUPPLEMENTS TO DECLARATION

Amendments to this Declaration shall be made by an instrument in writing entitled “Amendment to Declaration” which sets forth the entire amendment. Any supplements to this Declaration shall be made by an instrument in writing entitled “Supplemental Declaration” which sets forth any supplemental provisions.

This Declaration may be supplemented or amended as follows:

16.1 Supplement, Amendment or Revocation Prior to First Sale

Except as may otherwise be provided elsewhere in this Declaration, prior to the conveyance of the first Unit to an Owner other than a Declarant, the Declarant may unconditionally and unilaterally supplement, amend and/or revoke this Declaration and any amendments thereto via the Declarant's execution and recordation of an instrument supplementing, amending or revoking the same.

16.2 Supplements or Amendments by Declarant After First Sale

Except as may be provided elsewhere in this Declaration, after the conveyance of the first Unit to an Owner other than a Declarant and continuing until the end of Period of Declarant Control, the Declarant shall have the unilateral right (without obtaining the approval of the Owners, the Association, or existing Mortgagees) to supplement or amend this Declaration.

16.3 Consent of Owners

After the expiration of the Period of Declarant Control, and except as otherwise specifically provided for in this Declaration, any proposed supplement or amendment to this Declaration must be approved by a majority of the Board prior to being presented to the Owners for discussion and approval. Supplements or amendments to this Declaration may be adopted at a meeting of the Owners if all Owners have been duly notified in writing of such meeting and Owners holding sixty-seven percent (67%) of the voting rights vote in favor of such supplement or amendment, or by written ballot in lieu of a meeting if all Owners have been duly notified in writing and Owners holding sixty-seven percent (67%) of the voting rights consent in writing to such supplement or amendment.

16.4 Protection of Declarant's Rights

Any supplement or amendment to this Declaration shall not terminate or decrease any unexpired development right or Period of Declarant Control unless the Declarant clearly and explicitly approves or consents to such changes in writing.

16.5 Execution and Recordation of Supplements or Amendments

After the Period of Declarant Control, any supplement or amendment to this Declaration must bear the signature of the President of the Association and shall be attested by the Secretary, who shall state whether the supplement or amendment was properly adopted, and shall be acknowledged by them as officers of the Association. Any such supplements or amendments once properly adopted shall be effective upon recording in the Recorder's Office and any other appropriate governmental offices. Any decision changing the Percentage Interest shall require the unanimous consent of the Owners and their Mortgagees. It is specifically covenanted and understood that any supplement or amendment to this Declaration properly adopted will be completely effective to supplement or amend any or all of the covenants, conditions and restrictions contained herein which may be affected and any or all clauses of this Declaration unless otherwise specifically provided in the section being supplemented or amended or the supplement or amendment itself.

ARTICLE 17 – PERIOD OF DECLARANT CONTROL

The term Period of Declarant Control is intended to be synonymous with the term “period of administrative control” as that term is used in the Condominium Act.

During the entire Period of Declarant Control:

- A. the Declarant shall have the authority to appoint or remove members of the Board,
- B. the Declarant shall have the authority to exercise the authority assigned to the Association under the Governing Documents.
- C. the actions or decisions of the Association and the Board must be approved by the Declarant before such actions or decisions become effective; and
- D. the Declarant is exempt from the Rules and Regulations and any Association rulemaking procedures.

17.1 Partial or Complete Termination of Period of Declarant Control

Notwithstanding any language in any Governing Documents that may be construed to the contrary with respect to the Declarant’s ability to voluntarily terminate the Period of Declarant Control, the Declarant may (in its sole and absolute discretion) voluntarily terminate the Period of Declarant Control in whole or in part, with respect to all or any portion of the Project, or with respect to any issue, matter or subject whatsoever. Declarant’s decision to voluntarily partially or completely terminate the Period of Declarant Control with respect to all or any portion of the Project, or with respect to any issue, matter or subject shall in no event affect, modify, or act to waive Declarant’s authority under the Period of Declarant Control except with respect to such portion of the Project, or with respect to any issue, matter or subject.

Termination of the Period of Declarant Control shall not result in any loss or waiver whatsoever of Declarant’s rights incident to Declarant’s ownership of any Lots or any unbuilt and/or unsold Dwellings.

17.2 Declarant’s Sales Program

17.2.1 Generally. Notwithstanding any language in the Governing Documents to the contrary, and unless otherwise prohibited under the Condominium Act or any other applicable law, rule or regulation, until the date upon which Declarant has sold all Units owned by Declarant or the Expansion Deadline (whichever occurs first) the provisions of this Section 17.2 shall remain in full force and effect. Neither the Owners, the Association, nor the Board shall interfere with the completion of any improvements of the Project or the sale of Declarant’s Units, and Declarant shall have the following rights in furtherance of any sales, promotions or other activities designed to accomplish or facilitate the sale of any Units that are owned by Declarant.

17.2.2 Sales Office and Model Units. Declarant shall have the right to maintain one (1) or more sales offices and one (1) or more model Units at any time. Such office and/or models

may be one or more of the Units owned by the Declarant, one or more separate structures or facilities placed on the Property or the Additional Property for the purpose of aiding Declarant's sales effort, or any combination of the foregoing.

17.2.3 Promotional. Declarant shall have the right to maintain a reasonable number of promotional, advertising and/or directional signs, banners or similar devices at any place or places on the Project.

17.2.4 Common Area Use. Declarant shall have the right to use the Common Areas of the Project as deemed by Declarant as reasonably necessary to facilitate sales.

17.2.5 Relocation and Removal. Declarant shall have the right from time to time to locate or relocate any of its sales offices, models, or signs, banners or similar devices. Declarant shall also have the right to remove from the Project any signs, banners or similar devices and any separate structure or facility that was placed on the Project for the purpose of aiding Declarant's sales effort.

17.3 Easements Reserved by Declarant

Declarant hereby reserves to itself and its assigns, and for the benefit of the Association and all the Owners, the following described perpetual non-exclusive easements over all portions of the Project:

(A) Construction and Marketing Easements and Related Rights.

(i) The right to, from time to time, construct, install, inspect, maintain, repair and replace any utilities or infrastructure to serve the Project including, without limitation, electricity, water, sewer, phone, communications cables, and storm water and drainage systems which may include detention and retention ponds for the Project and any land that may become part of the Project;

(ii) The right to, from time to time, construct, maintain and repair earth walls, slopes, retaining walls and other supports; and

(iii) The right to, from time to time, construct and maintain offices, prefabricated structures, booths or other structures for administrative, sales and promotional purposes relating to the Project during its development and marketing.

(B) Landscaping and Drainage Easements.

(i) The right to, from time to time, re-vegetate, landscape, beautify or maintain any portions of the Project to the extent deemed by Declarant or the Association as reasonably necessary to mitigate any undesirable visual impact of the Project; and

(ii) The right to, from time to time and to the extent permitted by Utah law, preserve, improve, maintain, restore and re-vegetate natural and man-made storm drainage or storm water detention features, and to convey or hold water in such features in order to adequately control surface water and/or control erosion.

17.4 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 voluntary conveyance, transfer or assignment. Any Mortgage covering any Units or Buildings in the Project title to which is vested in the Declarant shall, at any given point in time and whether or not such Mortgage does so by its terms, automatically cover, encumber, and include all of the then unexercised or then unused rights, powers, authority, privileges, protections and controls which are accorded to the Declarant (in its capacity as Declarant) herein.

17.5 Transfer of Management

Notwithstanding any language in the Governing Documents to the contrary, Declarant may, at any time during the Period of Declarant Control, elect to transfer management of the Project to a Board elected by the Owners, but may also, at any time, relinquish and reclaim its reserved right to select the members of the Board.

ARTICLE 18 – MISCELLANEOUS

18.1 Service of Process

Service of process upon the Association for any purposes provided in the Acts may be made upon the offices of the Manager of the Association or upon the President of the Association. The Board or the Declarant may at any time designate a new or different person, entity or agency for such purposes by filing an amendment to this Declaration limited to the sole purpose of making such change, and such amendment need only be signed and acknowledged by the then President of the Association or an authorized representative of the Declarant.

18.2 Delivery of Notices to the Association

Any notices that may be delivered to the Association or the Board shall be sent in care of the Manager or, if there is no Manager, to the principal office of the Association or to such other address as the Board may hereafter designate from time to time. Mailed notices must be sent either via (A) first-class mail or (B) registered mail with signature required upon delivery.

Notices may also be (but are not required to be) sent to the Association via the Manager's email address or, if there is no Manager, to the Association's email address, if any. Notices may not be delivered to the Association solely via email. Any notices must be mailed to the Association as set forth above.

The current mailing address and email address of the Association and the Manager shall at all times be posted on the Association's website.

18.3 Delivery of Notices to the Owners

Pursuant to Section 57-8-42 of the Condominium Act, except as otherwise specifically required under any provision of this Declaration or the Bylaws or except as otherwise required under the Acts, the Association must send notices to Owners either via (A) first-class mail, (B) registered mail or (C) email.

The Association may post notices on the Association's website, but only if such notice has also been delivered to the Owners via first-class mail, registered mail or email. The Association may not utilize the Association's website as the sole means of delivering notices to the Owners. Aside from the use of email, the Association is prohibited from utilizing text messaging or any other electronic transmission (as that term is defined under Section 16-6a-102 of the Nonprofit Corporation Act) to deliver any notices. The Association shall refrain from posting on the Association's website any notice that may cause embarrassment to, or violate the privacy of, any particular Owner or group of Owners. The Association shall deliver such notice only via (A) first-class mail, (B) registered mail or (C) email.

Each Owner must provide the Secretary of the Association with an email address which the Association may use for the delivery of certain notices that may be electronically delivered as provided in the Governing Documents. Each Owner shall also provide the Secretary of the Association with a mailing address at which the Association may mail any notices that, pursuant to the provisions of the Governing Documents or the Acts, may not be electronically delivered. The Secretary of the Association shall maintain each Owner's email address and mailing address in the Association's records.

Any notice that is sent via first-class mail or registered mail shall be sent to the mailing address that is on file with the Association. Any notice that is delivered via first-class mail shall be deemed to have been delivered three (3) business days after a copy has been deposited in the United States mail, postage prepaid.

If an Owner has not provided the Association with a mailing address, any notices the Association wishes to mail to that Owner shall be delivered via first-class mail or registered mail to both (A) the mailing address for such Owner that is published on the Weber County Assessor's Office website and (B) the physical address of such Owner's Unit (if the two addresses are different).

An Owner may, by written demand to the Board, require that the Association abstain from delivering any notices to such Owner via email or any other electronic means and require that the Association only deliver notices to such Owner via first-class mail or registered mail.

If a Unit is jointly owned, notices shall be sent to a single mailing address, of which the Board has been notified in writing by such parties. If no mailing address has been given to the Board in writing, notices shall be sent to both (A) the mailing address for such Owner that is published on the Weber County Assessor's Office website and (B) the physical address of such Owner's Unit (if the two addresses are different).

18.4 Delivery of Notices to Mortgagees

Upon written request to the Secretary of the Association, a Mortgagee, or deed of trust beneficiary of any Unit shall be entitled to be sent a copy of any notices respecting the Unit covered by his or her security instrument until the request is withdrawn or the security right discharged. Notices will only be sent to those Mortgagees on record with the Association as requesting such notifications. The Association is not responsible to search for entities that may be entitled to receive notification.

18.5 Security Disclaimer

The Declarant and/or the Association may, but shall not be obligated to, maintain or support certain activities or personnel within the Project designed to promote Project safety. Neither the Declarant, the Association nor the Board shall in any way be considered insurers or guarantors of security within the Project, however; and neither the Declarant, the Association, nor the Board shall be held liable for any loss or damage by reason or failure to provide adequate security or ineffectiveness of security measures undertaken. All Owners and their tenants, family members, guests, invitees and any other occupants of any Unit, acknowledge and understand that neither the Declarant, the Association nor the Board have made any representations or warranties; nor have such Owners or their tenants, family members, guests, invitees or any other occupants of any Unit relied upon any representations or warranties, express or implied, including any warranty or merchantability or fitness for any particular purpose, relative to any security measures undertaken within the Project.

18.6 Owner Joint and Several Responsibility

If any Unit is owned by more than one Owner (“**Multi-Owner Unit**”), the Owners of such Multi-Owner Unit shall be “jointly and severally” responsible and liable for the performance and fulfillment of any Owner responsibilities, obligations and/or liabilities associated with such Multi-Owner Unit as set forth under the Governing Documents. By example, and without limitation of the previous sentence, if the Association were to impose a fine or Special Assessment against a Multi-Owner Unit, the Association may proceed to collect payment of such fine or Special Assessment from (A) any one Owner, (B) all Owners, or (C) less than all of the Owners of such Multi-Owner Unit.

18.7 Mechanics Liens

Liens for materials, labor or money against any Owner or the Association are to be indexed in the public records under the name of the Unit and the Unit’s Owner(s). With regard to a lien on multiple Units for materials, labor or money provided to the Association or affecting the Common Areas, an Owner may pay his or her pro rata share of the amount of any lien and that shall be sufficient to release the lien as to his Unit. Any person, entity or organization that elects to provide materials or perform labor at the Project shall do so subject to the terms, covenants, and conditions of this Section 18.7.

18.8 Severability

The provisions of this Declaration 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, if the remainder complies with the Acts or as covenants affect the common plan.

18.9 Effective Date

This Declaration shall take effect upon recording.

18.10 Liberal Construction

The provisions of the Governing Documents shall be liberally construed to effectuate their purpose of creating a uniform plan for the development and operation of the Project consistent with applicable Utah law. It is intended and covenanted also that, insofar as it affects the Governing Documents and the Project, the provisions of the Acts referenced herein shall be liberally construed to effectuate the intent of the Governing Documents insofar as reasonably possible. In the event any provision of the Governing Documents is deemed as inconsistent with or illegal under any provision of the Acts (or any other applicable Utah law, rule or regulation) then the applicable provision(s) of the Acts (or any other applicable Utah law, rule or regulation) shall govern.

18.11 Consistent with Acts

The terms such as, but not limited to, “Owner”, “Unit”, “Association”, “Building”, “Common Areas”, “Common Expenses”, and “Limited Common Areas”, used herein are intended to have the same meaning given in the Acts unless the context clearly requires otherwise or to so define the terms would produce an illegal or improper result.

18.12 Covenant Running with Land

It is intended that this Declaration shall be operative as a set of covenants running with the land, or equitable servitudes, supplementing and interpreting the Acts, and operating independently of the Acts should the Acts be, in any respect, inapplicable.

18.13 Unit and Building Boundary

In interpreting the Survey Map and Plans, the existing physical boundaries of each Building and each Unit as constructed shall be conclusively presumed to be its boundaries.

18.14 “Person”, etc.

When interpreting this Declaration, the term “person” may include natural persons, partnerships, corporations, associations, and personal representatives. The singular may include the plural and the masculine may include the feminine, or vice versa, where the context so admits or requires.

18.15 Captions and Exhibits

Captions given to the various Articles, Sections and Subsections herein are for convenience only and are not intended to modify or affect the meaning of the substantive provisions hereof. The various exhibits referred to herein by reference are hereby incorporated herein as though fully set forth where such reference is made.

IN WITNESS WHEREOF, the Declarant has caused this Declaration to be executed by each of the Declarant's members, and their respective affiliated entities, on the dates appearing in the attached Notary Acknowledgments.

[DECLARANT SIGNATURE BLOCK]

Exhibit A
to
Declaration of Covenants, Conditions and Restrictions
for _____ Condominiums

Legal Description of Property

Exhibit B

BYLAWS