

DECLARATION of COVENANTS, CONDITIONS, AND RESTRICTIONS  
for  
HIDEOUT CANYON

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DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS  
FOR  
HIDEOUT CANYON

THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR HIDEOUT CANYON ("Declaration") is made this 6<sup>th</sup> day of October, 2005, by MUSTANG DEVELOPMENT, LLC, a Utah limited liability company ("Declarant").

Declarant is the owner of the real property described in Exhibit "A", which is attached and incorporated by reference. This Declaration imposes upon the Properties (as defined in Article I) mutually beneficial restrictions under a general plan of improvements for the benefit of the owners of each portion of the Properties, and establishes a flexible and reasonable procedure for the overall development, administration, maintenance and preservation of the Properties.

Declarant hereby declares that all of the property described in Exhibit "A" and any additional property subjected to this Declaration by Supplemental Declaration (as defined in Article I) shall be held, sold, used and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of and which shall run with the real property subject to this Declaration. This Declaration shall be binding on and shall inure to the benefit of all parties having any right, title, or interest in the Properties or any part thereof, their heirs, successors, successors-in-title, and assigns.

Article I  
DEFINITIONS

The Terms used in this Declaration shall generally be given their natural, commonly accepted definitions except as otherwise specified. Capitalized terms shall be defined as set forth below.

1.1 "Area of Common Responsibility": The Common Area, together with those areas, if any, which by the terms of this Declaration, any Supplemental Declaration or other applicable covenants, or by contract become the responsibility of the Association.

1.2 "Articles of Incorporation" or "Articles": The Articles of Incorporation of HIDEOUT CANYON HOME OWNERS ASSOCIATION as filed with the State of Utah, Division of Corporations.

1.3 "Association": HIDEOUT CANYON HOME OWNERS ASSOCIATION, a Utah Non-Profit corporation, its successors and assigns.

1.4 "Base Assessment": Assessments levied on all Units to fund Common Expenses for the general benefit of all Units, as more particularly described in Sections 10.1, 10.3, and 10.4.

1.5 "Board of Directors" or "Board": The body responsible for administration of the Association, selected as provided in the By-Laws and generally serving the same role as the board of directors under the Utah Revised Nonprofit Corporations Act.

1.6 "Builder": Any Person which purchases one or more Units for the purpose of constructing improvements for later sale to consumers, or parcels of land within the Properties for further subdivision, development, and/or resale in the ordinary course of such Person's business.

1.7 "Business" and "Trade": Shall be construed to have their ordinary, generally accepted meanings, and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to Persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (a) such activity is engaged in full or part-time, (b) such activity is intended to or does generate a profit, or (c) a license is required.

1.8 "By-Laws": The By-Laws of Hideout Canyon Home Owners Association attached as Exhibit "C" and incorporated by reference, as they may be amended.

1.9 "Class "B" Control Period": The period of time during which the Class "B" member is entitled to appoint a majority of the members of the Board of Directors as provided in Section 3.3 of the By-Laws.

1.10 "Common Area": All real and personal property which the Association owns, leases or otherwise holds possessory or use rights in for the common use and enjoyment of the Owners.

1.11 "Common Expenses": The actual and estimated expenses incurred or anticipated to be incurred by the Association for the general benefit of all Units, including any reasonable reserve, as the Board may find necessary and appropriate pursuant to this Declaration, the By-Laws, and the Articles of Incorporation. Common Expenses shall not include any expenses incurred during the Class "B" Control Period for initial development, original construction, installation of infrastructure, original capital improvements, or other original construction costs unless approved by Voting Members representing a majority of the total Class "A" vote of the Association.

1.12 "Community-Wide Standard": The standard of conduct, maintenance, or other activity generally prevailing throughout the Properties. Such standard may be more specifically determined by the Board of Directors and the Design Review Committee.

1.13 "Declarant": Mustang Development, LLC, a Utah limited liability company, or any successor, successor-in-title, or assign who has or takes title to any portion of the property described on Exhibits "A" or "B" for the purpose of development and/or resale in the ordinary course of business and who is designated as the Declarant in a recorded instrument executed by the immediately preceding Declarant.

1.14 "Design Guidelines": The architectural guidelines and procedures adopted by the Design Review Committee pursuant to Article XI and applicable to all Units within the Properties.

1.15 "Golf Course": Any parcel of land adjacent to or within the Properties which is privately owned by Mustang Development, LLC, a Utah limited liability company, its successors, successors-in-title, or assigns, and which is operated as a golf course, and all related and supporting facilities and improvements operated in connection with such golf course.

1.16 "HIDEOUT CANYON": The Properties as described in Section 1.30.

1.17 "Master Plan": The Master Plan for the Development of Hideout Canyon as approved by the County Council of Wasatch County, Utah on the 14<sup>th</sup> day of April, 2003, as it may be amended, which plan includes the property described on Exhibit "A" and the property described on Exhibit "B" which Declarant may from time to time anticipate subjecting to this Declaration. The Master Plan may also include subsequent plans approved by Wasatch County for the development of all or a portion of the property described on Exhibit "B" which Declarant may from time to time anticipate subjecting to this Declaration. Inclusion of property on the Master Plan shall not, under any circumstances, obligate Declarant to subject such property to this Declaration nor shall the exclusion of property described on Exhibit "B" from the Master Plan bar its later annexation in accordance with Article IX.

1.18 "Maximum Units": The units approved for development under the Master Plan approved by County Council of Wasatch County, Utah on the 14<sup>th</sup> day of April, 2003, plus the maximum number of Units which may be developed in the property described on Exhibit "B" under the zoning designation of such property from time to time.

1.19 "Member": A Person entitled to membership in the Association, as provided in Section 3.2.

1.20 "Mortgage": A mortgage, a deed of trust, a deed to secure debt, or any other form of security deed.

1.21 "Mortgagee": A beneficiary or holder of a Mortgage.

1.22 "Mortgagor": Any Person who gives a Mortgage.

1.23 "Neighborhood": Two or more Units which share interests other than those common to all Units. By way of illustration and not limitation, a condominium, town home development, cluster home development, or single-family detached housing development might each be designated as separate Neighborhoods, or a Neighborhood may be comprised of more than one housing type with other features in common. In addition, each parcel of land intended for development as any of the above shall constitute a Neighborhood, subject to division into more than one Neighborhood upon development.

1.24 "Office of the County Recorder": The Office of the County Recorder of Wasatch County, Utah.

1.25 "Open Space": Privately owned land designated as "Open Space" and further regulated as such by Wasatch County Zoning Ordinances. Such designation may be placed on parcels within the Properties of Hideout Canyon.

1.26 "Owner": One or more Persons who hold the record title to any Unit, but excluding in all cases any party holding an interest merely as security for the performance of an obligation. If a Unit is sold under a recorded contract of sale, then upon recording of such contract, the purchaser (rather than the fee owner) will be considered the Owner, if the contract specifically so provides.

1.27 "Person": A natural person, a corporation, a partnership, a trustee, or any other legal entity.

1.28 "Phase": All Units simultaneously subjected to this Declaration by the Declarant by its execution and recording of this Declaration and each Supplemental Declaration in the Office of the County Recorder. The property described in Exhibit "A" of this Declaration shall constitute the first Phase ("Phase I").

1.29 "Private Amenities": Certain real property and any improvements and facilities thereon located adjacent to, in the vicinity of, or within the Properties, which are privately owned and operated by Persons other than the Association for recreational and related purposes, on a club membership basis, use fee basis, or otherwise, and shall include, without limitation, the Golf Course, if any.

1.30 "Properties": The real property described in Exhibit "A", together with such additional property as is subject to this Declaration in accordance with Article IX.

1.31 "Retail Owner": An Owner other than the Declarant or Builder.

1.32 "Special Assessment": Assessments levied in accordance with Section 10.6.

1.33 "Specific Assessment": Assessments levied in accordance with Section 10.7.

1.34 "Supplemental Declaration": An amendment or supplement to this Declaration filed pursuant to Article IX which subjects additional property to this Declaration, and identifies the Common Area within the additional property, if any, and/or imposes, expressly or by reference, additional restrictions and obligations on the land described therein.

1.35 "U.C.A.": The Utah Code Annotated.

1.36 "Unit": A portion of the Properties, whether improved or unimproved, which may be independently owned and conveyed and which is intended for development, use, and occupancy as an attached or detached residence for a single family. The term shall refer to the land, if any, which is part of the Unit as well as any improvements thereon. The term shall include, by way of illustration but not limitation, condominium units, townhouse units, cluster homes, patio or zero lot line homes, and single-family detached houses on separately platted lots, as well as vacant land intended for development as such, but shall not include Common Areas or property dedicated to the public. In the case of a building within a condominium or other structure containing multiple dwellings, each dwelling shall be deemed to be a separate Unit.

In the case of a parcel of vacant land or land on which improvements are under construction, the parcel shall be deemed to contain the number of Units designated for residential use for such parcel on the Master Plan or the site plan approved by Declarant, whichever is more recent, until such time as a subdivision plat or condominium plat is filed of record on all or a portion of the parcel. Thereafter, the portion encompassed by such plat shall constitute a separate Unit or Units as determined above and the number of Units on the remaining land, if any, shall continue to be determined in accordance with this paragraph.

1.37 "Voting Member or Members": Any Owner, Member, or Declarant representative selected formally or informally as appropriate to represent his/her Unit through signature on petitions, or voice or written ballot, including proxy, according to the provisions of Section 3.3.

Article II  
PROPERTY RIGHTS

2.1 Common Area. Every Owner shall have a right and nonexclusive easement of use, access, and enjoyment in and to the Common Area, subject to:

- (a) This Declaration, the By-Laws and any other applicable covenants;
- (b) Any restrictions or limitations contained in any applicable plat or deed conveying such property to the Association;
- (c) The right of the Board to adopt rules regulating the use and enjoyment of the Common Area, including rules restricting use of recreational facilities within the Common Area to occupants of Units and their guests and rules limiting the number of guests who may use the Common Area;
- (d) The right of the Board to suspend the right of an Owner to use recreational facilities within the Common Area (i) for any period during which any charge against such Owner's Unit remains delinquent, and (ii) for a period not to exceed 30 days for a single violation or for a longer period in the case of any continuing violation of the Declaration, any applicable Supplemental Declaration, the By-Laws, or rules of the Association after notice and a hearing pursuant to Section 3.23 of the By-Laws;
- (e) The right of the Association, acting through the Board, to dedicate or transfer all or any part of the Common Area pursuant to Section 4.7;
- (f) The right of the Board to impose reasonable membership requirements and charge reasonable membership admission or other fees for the use of any recreational facility situated upon the Common Area;
- (g) The right of the Board to permit use of any recreational facilities situated on the Common Area by persons other than Owners, their families, lessees and guests upon payment of use fees established by the Board;
- (h) The right of the Association, acting through the Board, to mortgage, pledge, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred, subject to the approval requirements set forth in Section 14.2.

Any Owner may extend his or her right of use and enjoyment to the members of his or her family, permitted lessees, and social invitees, subject to reasonable Board regulation. An Owner who has the right to and does lease his or her Unit shall be deemed to have assigned all such rights to the lessee of such Unit.

The Common Area within each recorded plat shall be conveyed to the Association prior to or in concurrence with the conveyance of a Unit within such plat to a Retail Owner.

2.2 Private Amenities. Access to and use of the Private Amenities is strictly subject to the rules and procedures of the respective Owners of the Private Amenities, and no Person gains any right to enter or to use those facilities by virtue of membership in the Association or ownership or occupancy of a Unit.

All Persons, including all Owners, are hereby advised that no representations or warranties, either written or oral, have been or are made by the Declarant or any other Person with regard to the construction, existence, nature or size of improvements to, or the continued ownership or operation of the Private Amenities. No purported representation or warranty, written or oral, in conflict with this Section shall be effective without an amendment to this Declaration executed or joined into by the Declarant or the owner(s) of the Private Amenity(-ies) which are the subject thereof.

The ownership or operation duties of and as to the Private Amenities may change at any time and from time to time by virtue of, but without limitation, (a) the sale to or assumption of operations by an independent entity, (b) conversion of the membership structure to an "equity" club or similar arrangement whereby the members of a Private Amenity or an entity owned or controlled thereby become the owner(s) and/or operator(s) of the Private Amenity, or (c) the conveyance of a Private Amenity to one or more affiliates, shareholders, employees, or independent contractors of the Declarant. No consent of the Association or any Owner shall be required to effectuate such a transfer or conversion.

Rights to use the Private Amenities will be granted only to such person, and on such terms and conditions, as may be determined by their respective owners. Such owners shall have the right, from time to time in their sole and absolute discretion and without notice, to amend or waive the terms and conditions of use of their respective Private Amenities and to terminate use rights altogether.

Article III  
ASSOCIATION FUNCTION, MEMBERSHIP AND VOTING RIGHTS

3.1 Function of Association. The Association shall be the entity responsible for management, maintenance, operation and control of the Area of Common Responsibility. The Association shall be the primary entity responsible for enforcement of this Declaration and such reasonable rules regulating use of the Properties as the Board may adopt. The Association shall also be responsible for administering and enforcing the architectural standards and controls set forth in this Declaration and in the Design Guidelines. The Association shall perform its functions in accordance with this Declaration, the By-Laws, the Articles, and Utah law.

3.2 Membership. Every Owner shall be a Member of the Association. There shall be only one membership per Unit. If a Unit is owned by more than one Person, all co-Owners shall share the privileges of such membership, subject to reasonable Board regulation and the restrictions on voting set forth in Section 3.3 and in the By-Laws, and all such co-Owners shall be jointly and severally obligated to perform the responsibilities of Owners. The membership rights and

privileges of an Owner who is a natural person may be exercised by the Member or the Member's spouse. The membership rights of an Owner which is a corporation, partnership or other legal entity may be exercised by any individual designated from time to time by the Owner in a written instrument provided to the Secretary of the Association.

3.3 Voting. The Association shall have two classes of membership, Class "A" and Class "B".

(a) Class "A": Class "A" Members shall be all Owners except the Class "B" Member, if any. Class "A" Members shall have one equal vote for each Unit in which they hold the interest required for membership under Section 3.2; there shall be only one vote per Unit.

(b) Class "B": Class "B" Members shall be the Declarant and any Builder who are Owners. Class "B" Members shall be entitled to three votes for each Unit owned. Unless otherwise specified in this Declaration, the By-Laws, or an agreement between Declarant and a Builder, the vote for each Unit owned by Builders shall be exercised by the Declarant. The Class "B" Membership shall cease and be converted to Class "A" membership upon the earlier of the following:

- (i) When 75% of the Maximum Units are owned by Retail Owners;
- (ii) 15 years from the anniversary date of closing of escrow for the first Unit after the first sale to a Retail Owner; provided that the 15-year period for conversion shall be extended an additional five years unless a majority of the Voting Members representing Class "A" Members at a special meeting held for such purpose at least 30 days, but not more than 90 days, prior to expiration of the 15-year period, vote not to extend the 15-year period. Furthermore, if the additional five-year extension occurs under the preceding sentence, the 20-year period for conversion shall be extended an additional three years unless a majority of the Voting Members representing Class "A" Members at a special meeting held for such purpose, at least 30, but not more than 90, days prior to expiration of the 20-year period, vote not to extend the 20 year-year period; or
- (iii) when, in its discretion, the Declarant so determines.

From and after the happening of these events, whichever occurs first, the Class "B" Member shall be deemed to be a Class "A" Member entitled to one vote for each Unit in which it holds the interest required for membership under Section 3.2. The Declarant shall have a right to disapprove actions of the Board and committees as provided in Section 3.18 of the By-Laws.

In the event Class "B" membership has not terminated when more than 50% of the Maximum Units are owned by Retail Owners, the Association shall form a "Transitional Advisory Committee" in accordance with Section 5.3 of the By-Laws. No later than when 75% of the Maximum Units are owned by Retail Owners, the Declarant shall call a meeting for the purpose of turning over administration responsibilities to the Association.

(c) Exercise of Voting Rights. Except as otherwise specified in this Declaration or the By-Laws, the vote for each Unit owned by a Class "A" Member shall be exercised by a Voting Member, as described within Section 1.37 and this Section.

In any situation in which a Member is entitled personally to exercise the vote for his or her Unit and there is more than one Owner of a particular Unit, the vote for such Unit shall be exercised as such co-Owners determine among themselves and advise the Secretary of the Association in writing prior to any meeting. Absent such advice, the Unit's vote shall be suspended if more than one Person seeks to exercise it.

Article IV

RIGHTS AND OBLIGATIONS OF THE ASSOCIATION

4.1 Common Area. The Association, subject to the rights of the Owners set forth in this Declaration, shall manage and control the Common Area and all improvements thereon (including, without limitation, furnishings, equipment, and common landscaped areas), and shall keep it in good, clean, attractive, and sanitary condition, order, and repair, consistent with this Declaration and Community-Wide Standard.

4.2 Personal Property and Real Property for Common Use. The Association may acquire, hold, and dispose of tangible and intangible personal property and real property. Declarant may convey to the Association improved or unimproved real estate located within the properties described in Exhibits "A" or "B", personal property and leasehold and other property interests. Such property shall be accepted by the Association and thereafter shall be maintained as Common Area by the Association at its expense for the benefit of its Members, subject to any restrictions set forth in the deed. The Declarant shall convey the Common Area within each recorded plat to the Association prior to or in concurrence with the conveyance of a Unit within such plat to a Retail Owner.

4.3 Enforcement. The Association may impose sanctions for violations of this Declaration, the By-Laws, or rules in accordance with procedures set forth in the By-Laws, including reasonable monetary fines and suspension of the right to vote and to use any recreational facilities within the Common Area. In addition, in accordance with Section 3.23 of the By-Laws, the Association may exercise self-help to cure violations, and may suspend any services it provides to the Unit of any Owner who is more than 30 days delinquent in paying any assessment or other charge due the Association. The Board may seek relief in any court for violation or to abate nuisances. The Association, by contract or other agreement, may enforce county ordinances, if applicable, and permit Wasatch County to enforce applicable ordinances on the Properties for the benefit of the Association and its Members.

4.4 Implied Rights; Board Authority. The Association may exercise any other right or privilege given to it expressly by this Declaration or the By-Laws, or reasonably implied from, or reasonably necessary to effectuate any such right or privilege. Except as otherwise specifically provided in this Declaration, the By-Laws, Articles, or by law, all rights and powers of the Association may be exercised by the Board without a vote of the membership.

4.5 Governmental Interests. So long as the Declarant owns any property described on Exhibits "A" or "B", the Declarant may designate sites within the Properties for fire, police, utility facilities, public schools and parks, and other public facilities. The sites may include Common Areas.

4.6 Indemnification. The Association shall indemnify every officer, director, and committee member against all expenses, including counsel fees, reasonably incurred in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the Board) to which he or she may be a party by reason of being or having been an officer, director, or committee member.

The officers, directors, and committee members shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers and directors shall have no personal liability with respect to any contractor other commitment made or action taken in good faith on behalf of the Association (except to the extent that such officers or directors may also be Members of the Association). The Association shall indemnify and forever hold each such officer, director and committee member harmless from any and all liability to others on account of any such contract, commitment or action. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any present or former officer, director, or committee members may be entitled. The Association shall, as a Common Expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

If the Association indemnifies or advances expenses, the Association shall report the indemnification or advance in writing to the Members with or before the notice of the next meeting of the Members.

4.7 Dedication of Common Areas. The Association may dedicate portions of the Common Areas to Wasatch County, Utah or to any other local, state, or federal governmental entity.

4.8 Security. The Association may, but shall not be obligated to, maintain or support certain activities within the Properties designed to make the Properties safer than they otherwise might be. NEITHER THE ASSOCIATION, THE DECLARANT, NOR ANY SUCCESSOR DECLARANT SHALL IN ANY WAY BE CONSIDERED INSURERS OR GUARANTORS OF SECURITY WITHIN THE PROPERTIES, NOR SHALL ANY OF THEM BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF FAILURE TO PROVIDE ADEQUATE SECURITY OR OF INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN. NO REPRESENTATION OR WARRANTY IS MADE THAT ANY FIRE PROTECTION SYSTEM, BURGLAR ALARM SYSTEM OR OTHER SECURITY SYSTEM CANNOT BE COMPROMISED OR CIRCUMVENTED, NOR THAT ANY SUCH SYSTEMS OR SECURITY MEASURES UNDERTAKEN WILL IN ALL CASES PREVENT LOSS OR PROVIDE THE DETECTION OR PROTECTION FOR WHICH THE SYSTEM IS DESIGNED OR INTENDED. EACH OWNER ACKNOWLEDGES, UNDERSTANDS AND COVENANTS TO INFORM ITS TENANTS THAT THE ASSOCIATION, ITS BOARD OF DIRECTORS AND COMMITTEES, DECLARANT, AND ANY SUCCESSOR DECLARANT ARE NOT INSURERS AND THAT EACH PERSON USING THE PROPERTIES ASSUMES ALL RISKS FOR LOSS OR DAMAGE

TO PERSONS, TO UNITS AND TO THE CONTENTS OF UNITS RESULTING FROM ACTS OF THIRD PARTIES.

Article V  
MAINTENANCE

5.1 Association's Responsibility. The Association shall maintain and keep in good repair the Area of Common Responsibility, which shall include, but need not be limited to:

(a) all landscaping and other flora, parks, signage, structures, and improvements, including any private streets, access roads, driveways, bike and pedestrian pathways/trails, situated upon the Common Area;

(b) snow removal as reasonably required to allow Jordanelle Special Service District ("JSSD") access (as reasonably necessary) to the sewer pump station off of Lasso Road. If the Association is not able to complete the snow removal in a timeframe that is reasonably required by JSSD in order for JSSD to respond to a particular circumstance, then the Association shall reimburse JSSD for reasonable market rate cost for their crews to complete the necessary snow removal themselves, and such cost shall constitute a Common Expense hereunder;

(c) landscaping, sidewalks, street lights and signage within public rights-of-way within or abutting the Properties, and landscaping and other flora within any public utility easements (and access roads thereto) and conservation easements within the Properties (subject to the terms of any easement agreement relating thereto); provided, however, that it shall be the responsibility of each Owner to landscape, irrigate, and maintain any area within public rights of way between such Owner's Unit and the paved roadway located in rights of way adjacent to such Owner's Unit from the date a certificate of occupancy is issued with respect to improvements on such Unit;

(d) such portions of any additional property included within any Area of Common Responsibility as may be dictated by this Declaration, any Supplemental Declaration, or any contract or agreement for maintenance thereof entered into by the Association; and

(e) any property and facilities owned by the Declarant and made available, on a temporary or permanent basis, for the primary use and enjoyment of the Association and its Members, such property and facilities to be identified by written notice from the Declarant to the Association and to remain a part of the Area of Common Responsibility and be maintained by the Association until such time as Declarant revokes such privilege of use and enjoyment by written notice to the Association.

There are hereby reserved to the Association, easements over the Properties as necessary to enable the Association to fulfill such responsibilities. The Association shall maintain the facilities and equipment within the Area of Common Responsibility in continuous operation, except for reasonable periods as necessary to perform required maintenance or repairs, unless Voting Members representing 75% of the Class "A" votes and the Declarant, as long as the Declarant owns any property described on Exhibits "A" or "B", agree in writing to discontinue such operation.

The Association may maintain other property which it does not own, including without limitation publicly owned property, conservation easements held by nonprofit entities, and other property dedicated to public use, if the Board determines that such maintenance is necessary or desirable to maintain the Community-Wide Standard.

Except as otherwise specifically provided herein, all costs associated with maintenance, repair and replacement of the Area of Common Responsibility shall be a common expense (including, but not limited to, amounts paid to third parties to perform such maintenance, repair and replacement) to be allocated among all Units in the manner of and as part of the Base Assessment, without prejudice to the right of the Association to seek reimbursement from the Owner(s) of, or other Person responsible for, certain portions of the Area of Common Responsibility pursuant to this Declaration, other recorded covenants, or agreements with the Owner(s) thereof.

5.2 Owner's Responsibility. Each Owner shall maintain his or her Unit and all structures, driveways, parking areas, landscaping, and other improvements comprising the Unit in a manner consistent with the Community-Wide Standard and all applicable covenants unless such maintenance responsibility is otherwise assumed by or assigned to the Association pursuant to any Supplemental Declaration or other declaration of covenants applicable to such Unit. In addition to any other enforcement rights, if an Owner fails properly to perform his or her maintenance responsibility, the Association may perform such maintenance responsibilities and assess all costs incurred by the Association against the Unit and the Owner in accordance with Section 10.7(b). The Association shall afford the Owner reasonable notice and an opportunity to cure the problem prior to entry, except when entry is required due to an emergency situation.

5.3 Standard of Performance. Maintenance, as used in this Article, shall include, without limitation, repair and replacement as needed, as well as such other duties, which may include irrigation, as the Board may determine necessary or appropriate to satisfy the Community-Wide Standard. All maintenance shall be performed in a manner consistent with the Community-Wide Standard and all applicable covenants. Notwithstanding anything to the contrary contained herein, the Association, and/or an Owner, shall not be liable for property damage or personal injury occurring on, or arising out of the condition of, property which it does not own unless and only to the extent that it has been negligent in the performance of its maintenance responsibilities.

5.4 Party Walls and Similar Structures.

(a) General Rules of Law to Apply. Each wall, fence, driveway or similar structure built as a part of the original construction on the Units which serves and/or separates any two adjoining Units shall constitute a party structure. To the extent not inconsistent with the provisions of this Section, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts of omissions shall apply thereto.

(b) Sharing of Repair and Maintenance. All Owners who make use of the party structure shall share the cost of reasonable repair and maintenance of such structure equally.

(c) Damage and Destruction. If a party structure is destroyed or damaged by fire or other casualty, then to the extent that such damage is not covered by insurance and repaired out of the proceeds of insurance, any Owner who has used the structure may restore it. If other Owners subsequently use the structure, they shall contribute to the restoration cost in equal proportions. However, such contribution will not prejudice the right to call for a larger contribution from the other users under any rule of law regarding liability for negligent or willful acts or omissions.

(d) Right to Contribution Runs With Land. The right of an Owner to contribution from any other Owner under this Section shall be appurtenant to the land and shall pass to such Owner's successors-in-title.

Article VI  
INSURANCE AND CASUALTY LOSSES

6.1 Association Insurance. The Association, acting through its Board or its duly authorized agent, shall obtain blanket "all-risk" property insurance, if reasonably available, for all insurable improvements on the Common Area and on other portions of the Area of Common Responsibility to the extent that it has assumed responsibility for maintenance, repair and/or replacement in the event of a loss. The Association shall have the authority to and interest in insuring any privately or publicly owned property for which the Association has maintenance or repair responsibility. Such property shall include, by way of illustration and not limitation, any insurable improvements on or related to parks, rights-of-ways, medians, easements, and walkways which the Association is obligated to maintain. If blanket "all-risk" coverage is not generally available at reasonable cost, then the Association shall obtain fire and extended coverage, including coverage for vandalism and malicious mischief. The face amount of the policy shall be sufficient to cover the full replacement cost of the insured property. The cost of such insurance shall be a Common Expense to be allocated among all Units subject to assessment as part of the annual Base Assessment.

The Association shall have no insurance responsibility for any part of any Private Amenity property.

The Association also shall obtain a public liability policy on the Area of Common Responsibility, insuring the Association and its Members for damage or injury caused by the negligence of the Association or any of its Members, employees, agents, or contractors while acting on its behalf. If generally available at reasonable cost, the public liability policy shall have at least a \$1,000,000.00 combined single limit as respects bodily injury and property damage and at least a \$3,000,000.00 limit per occurrence and in the aggregate.

Premiums for all insurance on the Area of Common Responsibility shall be Common Expenses and shall be included in the Base Assessment.

The policies may contain a reasonable deductible which shall not be subtracted from the face amount of the policy in determining whether the insurance at least equals the required coverage. In the event of an insured loss, the deductible shall be treated as a Common Expense in the same manner as the premiums for the applicable insurance coverage. However, if the Board

reasonably determines, after notice and an opportunity to be heard in accordance with Section 3.23 of the By-Laws, that the loss is the result of the negligence or willful conduct of one or more Owners or occupants, then the Board may specifically assess the full amount of such deductible against the Unit of such Owner or occupant, pursuant to Section 10.7(b).

All insurance coverage obtained by the Association shall:

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

(b) be written in the name of the Association as trustee for the benefitted parties. Policies on the Common Area shall be for the benefit of the Association and its Members;

(c) vest in the Board, exclusive authority to adjust losses; provided, however, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related to the loss;

(d) not be brought into contribution with insurance purchased by individual Owners, occupants, or their Mortgagees; and

(e) have an inflation guard endorsement, if reasonably available. If the policy contains a co-insurance clause, it shall also have an agreed amount endorsement. The Association shall arrange for an annual review of the sufficiency of insurance coverage by one or more qualified persons, at least one of whom must be in the real estate industry and familiar with construction in the Wasatch County, Utah area.

The Board shall use reasonable efforts to secure insurance policies containing endorsements that:

(a) waive subrogation as to any claims against the Association's Board, officers, employees, and its manager, the Owners and their tenants, servants, agents, and guests;

(b) waive the insurer's rights to repair and reconstruct instead of paying cash;

(c) preclude cancellation, invalidation, suspension, or non-renewal by the insurer on account of any one of more individual Owners, or on account of any curable defect or violation without prior written demand to the Association to cure the defect or violation and allowance of a reasonable time to cure;

(d) exclude individual Owners' policies from consideration under any "other insurance" clause; and

(e) require at least 30 days prior written notice to the Association of any cancellation, substantial modification, or non-renewal.

The Association shall also obtain, as a Common Expense, worker's compensation insurance and employer's liability insurance, if and to the extent required by law; directors' and officers' liability coverage, if reasonably available, and flood insurance, if advisable.

The Association also shall obtain, as a Common Expense, a fidelity bond or bonds, if generally available at reasonable cost, covering all persons responsible for handling Association funds. The Board shall determine the amount of fidelity coverage in its best business judgment but, if reasonably available, shall secure coverage equal to not less than one-sixth of the annual Base Assessments on all Units plus reserves on hand. Bonds shall contain a waiver of all defenses based upon the exclusion of persons serving without compensation and shall require at least 30 days prior notice to the Association of any cancellation, substantial modification, or non-renewal.

6.2 Owners Insurance. By virtue of taking title to a Unit, each Owner covenants and agrees with all other Owners and with the Association to carry blanket "all-risk" property insurance on its Unit(s) and structures thereon providing full replacement cost coverage less a reasonable deductible, unless the Association carries such insurance (which they are not obligated to do hereunder).

Each Owner further covenants and agrees that in the event of damage to, or destruction of, structures on or comprising his or her Unit, he or she shall proceed promptly to repair or to reconstruct in a manner consistent with the original construction or such other plans and specifications as are approved in accordance with Article XI of this Declaration. Alternatively, the Owner shall clear the Unit of all debris and ruins and maintain the Unit in a neat and attractive, landscaped condition consistent with the Community-Wide Standard. The Owner shall pay any costs which are not covered by insurance proceeds.

6.3 Damage and Destruction.

(a) Immediately after damage or destruction to all or any part of the Properties covered by insurance written in the name of the Association, the Board or its duly authorized agent shall file and adjust all insurance claims and obtain reliable and detailed estimates of the cost of repair or reconstruction. Repair or reconstruction, as used in this paragraph, means repairing or restoring the property to substantially the condition in which it existed prior to the damage, allowing for changes or improvements necessitated by changes in applicable building codes.

(b) Any damage to or destruction of the Common Area shall be repaired or reconstructed unless the Members representing at least 75% of the total class "A" votes and the Declarant, as long as the Declarant owns any property described in Exhibits "A" or "B" of the Declaration, decide within 60 days after the loss not to repair or reconstruct. No Mortgagee shall have the right to participate in the determination of whether the damage or destruction to the Common Area shall be repaired or reconstructed.

If either the insurance proceeds or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not available to the Association within such 60-day period, then the period shall be extended until such funds or information are available. However, such extension shall not exceed 60 additional days.

(c) If determined in the manner described above that the damage or destruction to the Common Area shall not be repaired or reconstructed and no alternative improvements are authorized, the affected property shall be cleared of all debris and ruins and maintained by the Association in a neat and attractive, landscaped condition consistent with the Community-Wide Standard.

6.4 Disbursements of Proceeds. Any insurance proceeds remaining after paying the costs of repair or reconstruction, or after such settlement as is necessary and appropriate, shall be retained by and for the benefit of the Association and placed in a capital improvements account. This is a covenant for the benefit of Mortgagees and may be enforced by the Mortgagee of any affected Unit.

6.5 Repair and Reconstruction. If insurance proceeds are insufficient to cover the costs of repair or reconstruction, the Board shall, without a vote of the Voting Members, levy Special Assessments against those Unit Owners responsible for the premiums for the applicable insurance coverage under Section 6.1.

Article VII  
NO PARTITION

Except as permitted in this Declaration, there shall be no judicial partition of the Common Area. No Person shall seek any judicial partition unless the Properties or such portion thereof have been removed from the provisions of this Declaration. This Article shall not prohibit the Board from acquiring and disposing of tangible personal property nor from acquiring and disposing of real property which may or may not be subject to this Declaration.

Article VIII  
CONDEMNATION

If any part of the Common Area shall be taken (or conveyed in lieu of and under threat of condemnation by the Board acting on the written direction of Voting Members representing at least 66 2/3% of the total Class "A" votes in the Association, and of the Declarant, as long as the Declarant owns any property described on Exhibits "A" or "B" of the Declaration) by any authority having the power of condemnation or eminent domain, each Owner shall be entitled to written notice. The award made for such taking shall be payable to the Association as trustee for all Owners to be disbursed as follows:

If the taking involves a portion of the Common Area on which improvements have been constructed, the Association shall restore or replace such improvements on the remaining land included in the Common Area to the extent available, unless within 60 days after such taking, the Declarant, so long as the Declarant owns any property described in Exhibits "A" or "B" of this Declaration, and Voting Members representing at least 75% of the total class "A" votes in the Association shall otherwise agree. Any such construction shall be in accordance with plans approved by the Board. The provisions of Section 6.4 and 6.5 regarding funds for the repair of damage or destruction shall apply.

If the taking does not involve any improvements on the Common Area, or if a decision is made not to repair or restore, or if net funds remain after any such restoration or replacement is

complete, then such award or net funds shall be disbursed to the Association and used for such purposes as the Board shall determine.

Article IX  
ANNEXATION AND WITHDRAWAL OF PROPERTY

9.1 Annexation Without Approval of Membership. Prior to the sale of the first Unit to a Retail Owner, Declarant may unilaterally subject to the provisions of this Declaration all or portions of the real property described in Exhibit "B" until all property described on Exhibit "B" has been subjected to this Declaration or 30 years after the recording of this Declaration, whichever is earlier. After the sale of the first Unit to a Retail Owner, Declarant may unilaterally subject to the provisions of this Declaration all or any portion of the real property described in Exhibit "B", until the earlier of (a) the date on which all property described on Exhibit "B" has been subjected to this Declaration, or (b) the later of (i) four years from the most recent sale to a Retail Owner, or (ii) four years from the date of recording of the most recent Supplemental Declaration to annex additional property.

Declarant may transfer or assign this right to annex property, provided that the transferee or assignee is the developer of at least a portion of the real property described in Exhibits "A" or "B" and that such transfer is memorialized in a written, recorded instrument executed by Declarant. Nothing in this Declaration shall be construed to require the Declarant or any successor to annex or develop any of the property set forth in Exhibit "B" in any manner whatsoever.

Such annexation shall be accomplished by filing a Supplemental Declaration in the Office of the County Recorder describing the property to be annexed and specifically subjecting it to the terms of this Declaration. Such Supplemental Declaration shall not require the consent of Members, but shall require the consent of the Owner of such property, if other than Declarant. Any such annexation shall be effective upon the filing for record of such Supplemental Declaration unless otherwise provided therein.

9.2 Annexation With Approval of Membership. The Association or the Declarant may subject any real property to the provisions of this Declaration with the consent of the owner of such property, the affirmative vote of Voting Members representing 66 2/3% of the Class "A" votes of the Association represented at the meeting duly called for such purpose, and the consent of the Declarant so long as Declarant owns property subject to this Declaration or which may become subject to this Declaration in accordance with Section 9.1.

Such annexation shall be accomplished by filing a Supplemental Declaration in the Office of the County Recorder describing the property to be annexed and specifically subjecting it to the terms of this Declaration. Any such Supplemental Declaration shall be signed by the President and the Secretary of the Association, and by the owner of the annexed property. Any such annexation shall be effective upon filing unless otherwise provided therein.

9.3 Withdrawal of Property. The Declarant reserves the right to amend this Declaration so long as it has a right to annex additional property pursuant to this Article, without prior notice and without the consent of any Person, for the purpose of removing property then owned by the Declarant, its affiliates, or the Association from the coverage of this Declaration, to the extent

originally included in error or as a result of any changes in the Declarant's plans for the Properties, provided such withdrawal is not unequivocally contrary to the overall, uniform scheme of development for the Properties.

9.4 Additional Covenants and Easements. The Declarant may unilaterally subject any portion of the property submitted to this Declaration initially or by Supplemental Declaration to additional covenants and easements, including covenants obligating the Association to maintain and insure such property on behalf of the Owners and obligating such Owners to pay the costs incurred by the Association. Such additional covenants and easements shall be set forth in a Supplemental Declaration filed either concurrent with or after the annexation of the subject property, and shall require the written consent of the owner(s) of such property, if other than the Declarant.

9.5 Amendment. This Article shall not be amended without the prior written consent of Declarant so long as the Declarant owns any property described in Exhibits "A" or "B".

#### Article X ASSESSMENTS

10.1 Creation of Assessments. The Association is hereby authorized to levy assessments against each Unit for Association expenses as the Board may specifically authorize from time to time. There shall be three types of assessments for Association expenses: (a) Base Assessments to fund Common Expenses for the general benefit of all Units; (b) Special Assessments as described in Section 10.6; and (c) Specific Assessments as described in Section 10.7. Each Owner, by accepting a deed or entering into a recorded contract of sale for any portion of the Properties is deemed to covenant and agree to pay these assessments.

All assessments (except as otherwise provided in Section 10.7(b)), together with interest from the due date of such assessment at a rate determined by the Association (not to exceed the highest rate allowed by Utah law), late charges, costs, and reasonable attorney fees, shall be a charge and continuing lien upon each Unit which the assessment is made until paid, as more particularly provided in Section 10.10. Each such assessment, together with interest, late charges, costs, and reasonable attorney fees, also shall be the personal obligation of the Person who was the Owner of such Unit at the time the assessment arose. Upon a transfer of title to a Unit, the grantee shall not be liable for any assessments and other charges due at the time of conveyance unless expressly assumed by him or her. No first Mortgagee who obtains title to a Unit by exercising the remedies provided in its Mortgage shall be liable for unpaid assessments which accrued prior to such acquisition of title.

Assessments shall be paid in such manner and on such dates as the Board may establish. If the Board so elects, assessments may be paid in two or more installments. Unless the Board otherwise provides, the Base Assessment shall be due and payable in advance on the first day of each fiscal year. If any Owner is delinquent in paying any assessments or other charges levied on his or her Unit, the Board may require any unpaid installments of all outstanding assessments to be paid in full immediately.

The Association shall, upon request, furnish to any Owner liable for any type of assessment a certificate in writing signed by an officer of the Association setting forth whether such assessment

has been paid. Such certificate shall be conclusive evidence of payment. The Association may require the advance payment of a reasonable processing fee for the issuance of such certificate.

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

After the commencement of assessment payments as to any Unit, Declarant, if any, covenants and agrees to pay the full amount of any applicable assessment for each occupied Unit it owns; notwithstanding anything contained herein to the contrary, the Declarant shall not be required to pay Base, Special, or Specific Assessments for unoccupied Units that it owns.

Notwithstanding anything to the contrary herein, the Declarant may contribute assessments due from it in services and/or materials ("In-Kind"), rather than in money. The amount by which monetary assessments shall be decreased as a result of any In-Kind contribution shall be the fair market value of the contribution. If the Declarant and the Association disagree as to the value of any contribution, the Declarant shall supply the Association with a detailed explanation of the service performed and material furnished, and the Association shall acquire bids for performing like services and furnishing like materials from three (3) independent contractors approved by the Declarant who are in the business of providing such services and materials. If the Association and the Declarant are still unable to agree on the value of the contribution, the value shall be deemed to be the average of the bids received from the independent contractors.

10.2 Capitalization of Association. Upon acquisition of record title to each Unit by its first Retail Owner, a contribution shall be made by, or on behalf of, the purchaser to the working capital of the Association in an amount equal to one-sixth of the annual Base Assessment per Unit for that year. For purposes of this Section, the term "Base Assessment" shall be deemed to include the amount assessed against each Unit plus a pro rata allocation of any amounts (values) the Association received through any subsidy, maintenance agreement, or In-Kind services or materials, if any. This amount shall be in addition to, not in lieu of, the annual Base Assessment and shall not be considered an advance payment of such assessment. This amount shall be deposited into the purchase and sales escrow and disbursed therefrom to the Association for use in covering operation expenses and other expenses incurred by the Association pursuant to the terms of this Declaration and the By-Laws.

10.3 Date of Commencement of Assessments. Subject to Section 10.1, the obligation to pay the assessments provided for herein shall commence as to all Units on the earlier of: (a) the first day of the month following the first conveyance of a Unit to a Retail Owner; or (b) the first day of the month following conveyance of the Common Area to the Association. The first annual Assessment shall be adjusted according to the number of days remaining in the fiscal year at the time assessments commence on the Unit.

10.4 Computation of Base Assessment. The Board shall prepare a budget covering the estimated Common Expenses during the coming year pursuant to the terms and provisions set forth in Section 3.20(f)(i) of the By-Laws. The budget shall include a capital contribution to establish a reserve fund in accordance with a budget separately prepared as provided in Section 10.5.

The Base Assessment shall be levied equally against all Units subject to assessment and shall be set at a level which is reasonably expected to produce total income for the Association equal to the total budgeted Common Expenses, including reserves. In determining the level of assessments, the Board, in its discretion, may consider other sources of funds available to the Association. In addition, the Board shall take into account the number of Units subject to assessment under Section 10.7(b) on the first day of the fiscal year for which the budget is prepared and the number of Units reasonably anticipated to become subject to assessment during the fiscal year.

The Board shall send a copy of the budget and notice of the amount of the Base Assessment for the following year to each Owner not less than 45 nor more than 60 days prior to the beginning of the fiscal year for which it is to be effective.

10.5 Reserve Budget and Capital Contribution. The Board shall annually prepare a reserve budget which takes into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost. The Board shall set the required capital contribution in an amount sufficient to permit meeting the projected needs of the Association, as shown on the budget, with respect both to amount and timing by annual Base Assessments over the budget period.

10.6 Special Assessments. In addition to other authorized assessments, the Association may levy Special Assessments from time to time to cover unbudgeted expenses or expenses in excess of those budgeted subject to the limitations set forth in Section 10.8. Such Special Assessment may be levied against the entire membership, if such Special Assessment is for common expenses. Special Assessments shall be payable in such manner and at such times as determined by the Board, and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved.

10.7 Specific Assessments. The Board shall have the power to levy Specific Assessments against a particular Unit or Units constituting less than all Units within the Properties as follows:

(a) to cover the costs, including overhead and administrative costs, of providing benefits, items, or services to the Unit or occupants thereof upon request of the Owner pursuant to a menu of special services which the Board may from time to time authorize to be offered to Owners (which might include, without limitation, landscape maintenance, snow removal, handyman service, pool cleaning, pest control, etc.), which assessments may be levied in advance of the provision of the requested benefit, item or service as a deposit against charges to be incurred by the Owner; and

(b) to cover costs incurred in bringing the Unit into compliance with the terms of this Declaration, any applicable Supplemental Declaration, the By-Laws or rules, or costs incurred as a consequence of the conduct of the Owner or occupants of the Unit, their licensees, invitees, or

guests; provided, the Board shall give the Unit Owner prior written notice and an opportunity for a hearing before levying a Specific Assessment under this subsection (b).

10.8 Limitation of Increases of Assessments. Notwithstanding any provision to the contrary, and except for assessment increases necessary for emergency situations or to reimburse the Association pursuant to Section 10.7, the Board may not impose a Base Assessment or Specific Assessment that is more than 20% greater than each of those assessments for the immediately preceding fiscal year nor impose a Special Assessment which in the aggregate exceeds 5% of the budgeted Common Expenses for the current fiscal year, without a majority vote of a quorum of Voting Members representing the Members which are subject to the applicable assessment at a meeting of the Association. For purposes of this Section, "quorum" means the voting members representing more than 50% of the Members which are subject to the applicable assessment. For purposes of this Section, the term "Base Assessment" shall be deemed to include the amount assessed against each Unit plus a pro rata allocation of any amounts the Association received through any maintenance agreement, if any, in effect for the year immediately preceding the year for which the assessment is to be increased.

An emergency situation is any one or more of the following:

- (a) an extraordinary expense required by an order of a court;
- (b) an extraordinary expense necessary to repair or maintain the Properties or any part of them for which the Association is responsible where a threat to personal safety on the Properties is discovered; or
- (c) an extraordinary expense necessary to repair or maintain the Properties or any part of them for which the Association is responsible which could not have been reasonably foreseen by the Board in preparing and distributing the pro forma budget pursuant to Section 10.4. However, prior to the imposition or collection of such an assessment, the Board shall pass a resolution containing written findings as to the necessity of the extraordinary expenses involved and why the expense was not or could not have been reasonably foreseen in the budgeting process. Such resolution shall be distributed to the Members with the notice of such assessment.

10.9 Failure to Assess. Failure of the Board to fix assessment amounts or rates or to deliver or mail to each owner an assessment notice shall not be deemed a waiver, modification, or a release of any Owner from the obligation to pay assessments. In such event, each Owner shall continue to pay Base Assessments on the same basis as for the last year for which an assessment was made, if any, until a new assessment is made, at which time the Association may retroactively assess any shortfalls in collections.

10.10 Lien for Assessments. All assessments authorized in this Article shall constitute a lien against the Unit against which they are levied until paid, unless otherwise specifically precluded in this Declaration. The lien shall also secure payment of interest, late charges (subject to the limitation of Utah law), and costs of collection (including attorney fees). Such lien shall be superior to all other liens, except (a) the liens of all taxes, bonds, assessments, and other levies which by law would be superior, and (b) the lien or charge of any first Mortgage of record (meaning any recorded Mortgage with first priority over other Mortgages) made in good faith and

for value. The Association may enforce such lien, when delinquent, by suit, judgment, and foreclosure. The lien shall be effective for a period of ten (10) years from the date of filing. The lien shall be filed with the Office of the County Recorder. The lien shall be foreclosed pursuant to applicable law.

The Association may bid for the Unit at the foreclosure sale and acquire, hold, lease, mortgage, and convey the Unit. While a Unit is owned by the Association following foreclosure: (a) no right to vote shall be exercised on its behalf; (b) no assessment shall be levied on it; and (c) each other unit shall be charged, in addition to its usual assessment, its equal pro rata share of the assessment that would have been charged such Unit had it not been acquired by the Association. The Association may sue for unpaid Common Expenses and costs without foreclosing or waiving the lien securing the same.

The sale or transfer of any Unit shall not affect the assessment lien or relieve such Unit from the lien for any subsequent assessment. However, the sale or transfer of any Unit pursuant to foreclosure of the first Mortgage shall extinguish the lien as to any installments of such assessments due prior to such sale or transfer. A Mortgagee or other purchaser of a Unit who obtains title pursuant to foreclosure of the Mortgage shall not be personally liable for assessments on such Unit due prior to such acquisition of title.

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

- (a) All Common Areas;
- (b) Any property dedicated to and accepted by any governmental authority or public utility; and
- (c) Unoccupied lots owned by Declarant.

In addition, the Declarant shall have the right, but not the obligation, to grant exemptions to certain Persons qualifying for Section 501(c) status under the Internal Revenue Code so long as such Persons own property subject to this Declaration for purposes listed in Section 501(c).

Article XI  
ARCHITECTURAL STANDARDS

11.1 General. No structure shall be placed, erected, or installed upon any Unit, and no improvements (including staking, clearing, excavation, grading and other site work, exterior alteration of existing improvements, planting or removal of landscaping materials, and installation or removal of an irrigation system) shall take place except in compliance with this Article and the Design Guidelines and upon approval of the appropriate committee under Section 11.2.

Any Owner may remodel, paint or redecorate the interior of structures on his or her Unit without approval. However, modifications to the interior of screened porches, patios, and similar portions of a Unit visible from outside the structures on the Unit shall be subject to approval. No approval shall be required to repaint the exterior of a structure in accordance with the originally

approved color scheme or to rebuild in accordance with originally approved plans and specifications.

All dwellings and landscaping constructed or placed on any portion of the Properties shall be designed by and built in accordance with the plans and specifications of a licensed architect or licensed building designer.

This Article shall not apply to the activities of the Declarant, nor to improvements to the Common Area by, or on behalf of the Association.

This Article may not be amended without the Declarant's written consent so long as the Declarant owns any land subject to this Declaration or subject to annexation to this Declaration.

11.2 Architectural Review. Responsibility for administration of the Design Guidelines, as defined below, and review of all applications for construction and modifications under this Article shall be handled by the committee as described herein. The Members of the committee need not be members of the Association or representatives of Members, and may, but need not, include architects, engineers or similar professionals, whose compensation, if any, shall be established from time to time by the Board. The Board may establish and charge reasonable fees for review of applications hereunder and may require such fees to be paid in full prior to review.

The Design Review Committee (DRC) shall consist of at least three, but not more than five persons. So long as Declarant, any affiliate of the Declarant, or any Builder owns any Unit primarily for development and/or sale, the Declarant retains the right to appoint all members of the DRC, who shall serve at the discretion of the Declarant. There shall be no surrender of this right prior to that time, except in a written instrument in recordable form executed by Declarant. Upon surrender of such right, the Board of Directors may appoint the members of the DRC, who shall serve and may be removed at the discretion of the Board of Directors.

The DRC shall have exclusive jurisdiction over all original construction on or any modifications, additions, or alterations made to any Units owned by Declarant, any affiliates of Declarant, any Builder, or Units owned by Retail Owners.

11.3 Guidelines and Procedures. The Declarant shall prepare the initial design and development guidelines and application and review procedures ("Design Guidelines") which shall apply to all construction activities within the Properties. The Design Guidelines may contain general provisions applicable to all of the Properties, as well as specific provisions which vary from one portion of the Properties to another depending upon the location, unique characteristics, and intended use.

The DRC shall adopt such Design Guidelines at its initial organizational meeting and thereafter shall have sole and full authority to amend them. Any amendments to the Design Guidelines shall apply to construction and modifications commenced after the date of such amendment only and shall not apply to require modifications to or removal of structures previously approved once the approved construction or modification has commenced.

The DRC shall make the Design Guidelines available to Owners and Builders who seek to engage in development or construction within the Properties and all such Persons shall conduct their activities in accordance with such Design Guidelines. At the Declarant's discretion, such Design Guidelines may be recorded in the Office of the County Recorder, in which event the recorded version, as it may unilaterally be amended from time to time, shall control in the event of any dispute as to which version of the Design Guidelines was in effect at any particular time.

#### 11.4 Submission of Plans and Specifications.

(a) No construction or improvements shall be commenced, erected, placed or maintained on any Unit, nor shall any exterior addition, change or alteration be made thereto, until the plans and specifications ("Plans") showing site layout, structural design, exterior elevations, exterior materials and colors, signs, landscaping, drainage, lighting, irrigation, utility facilities layout, and screening therefor shall have been submitted to and approved in writing by the DRC. The Design Guidelines shall set forth the procedure for submission of the Plans.

(b) In reviewing each submission, the DRC may consider visual and environmental impact, ecological compatibility, natural platforms and finish grade elevation, harmony of external design with surrounding structures and environment, and location in relation to surrounding structures and plant life. The committee may require relocation of native plants within the construction site or the installation of an irrigation system for the landscaping, including the natural plant life on the Unit, as condition of approval of any submission.

The DRC shall, within 45 days after receipt of each submission of the Plans, advise the party submitting the same in writing at an address specified by such party at the time of submission of (i) the approval of Plans, or (ii) the segments or features of the Plans which are deemed by such committee to be inconsistent or not in conformity with the Declaration and/or the Design Guidelines, the reason for such finding and suggestions for the curing of such objections. In the event the committee fails to advise the submitting party by written notice within the time set forth above, of either the approval or disapproval of the Plans, approval shall be deemed to have been given. Notice shall be deemed to have been given at the time the envelope containing such notice, properly addressed, and postage prepaid, is deposited with the U.S. Postal Service, registered or certified mail, return receipt requested or another commercially recognized means of delivery (e.g., Federal Express). Personal delivery of such written notice shall, however, be sufficient and shall be deemed to have been given at the time of delivery.

(c) If construction does not commence on a project for which Plans have been approved within 12 months of such approval, such approval shall be deemed withdrawn and it shall be necessary to resubmit the Plans to the DRC for reconsideration.

11.5 No Waiver of Future Approvals. Each Owner acknowledges that the members of the DRC will change from time to time and that interpretation, application and enforcement of the Design Guidelines may vary accordingly. Approval of proposals, plans and specifications, or drawings for any work done or proposed, or in connection with any other matter requiring approval, shall not be deemed to constitute a waiver of the right to withhold approval as to any similar proposals, plans and specifications, drawings, or other matters subsequently or additionally submitted for approval.

11.6 Variance. The DRC may authorize variances from compliance with any of its guidelines and procedures when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations require, but only in accordance with duly adopted rules and regulations. Such variances may only be granted, however, when unique circumstances dictate and no variance shall (a) be effective unless in writing; (b) be contrary to this Declaration; or (c) estop the DRC from denying a variance in other circumstances. For purposes of this Section, the inability to obtain approval of any governmental agency, the issuance of any permit, the cost of compliance, or the terms of any financing shall not be considered a hardship warranting a variance.

11.7 Limitation of Liability. Review and approval of any application pursuant to this Article is made on the basis of aesthetic considerations only and the DRC shall not bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications, nor for ensuring compliance with building codes and other governmental requirements. Neither the Declarant, the Association, the Board, any committee, or member of any of the foregoing shall be held liable for any injury, damages, or loss arising out of the manner or quality of approved construction on, or modifications to, any Unit.

11.8 Enforcement. Any structure or improvement placed or made in violation of this Article shall be deemed to be nonconforming. Upon written request from the Board or the Declarant, Owners shall, at their own cost and expense, remove such structure or improvement and restore the land to substantially the same condition as existed prior to the nonconforming work. Should an Owner fail to remove and restore as required, the Board or its designees shall have the right to enter the property, remove the violation, and restore the property to substantially the same condition as previously existed. All costs, together with the interest at the maximum rate then allowed by law, may be assessed against the benefitted Unit and collected as a Specific Assessment unless otherwise prohibited in this Declaration.

Any contractor, subcontractor, agent, employee, or other invitee of an Owner who fails to comply with the terms and provisions of this Article and the Design Guidelines may be excluded by the Board from the Properties, subject to the notice and hearing procedures contained in the By-Laws. In such event, neither the Association, its officers, or directors shall be held liable to any Person for exercising the rights granted by this paragraph.

In addition to the foregoing, the Association shall have the authority and standing to pursue all legal and equitable remedies available to enforce the provisions of this Article and the decision of the DRC.

11.9 Building Site. The DRC may establish building areas for each Unit. If so established, construction of a residence shall be restricted to said area, unless the DRC, upon good cause shown by the Unit Owner, shall select another suitable building area upon a Unit. Constructing on such alternate site shall not interfere with the view of any adjacent Unit nor shall it encroach upon any established Unit setback requirement.

Article XII  
USE GUIDELINES AND RESTRICTIONS

12.1 Plan of Development; Applicability; Effect. Declarant has created Hideout Canyon as a residential, commercial and recreational mixed use development and, in furtherance of its and every other Owner's interests, has established a general plan of development for Hideout Canyon as a master planned community. The Properties are subject to land development, architectural, and Design Guidelines as set forth in Article XI. The Properties are subject to guidelines and restrictions governing land use, individual conduct, and uses of or actions upon the Properties as provided in this Article XII. This Declaration and resolutions of the Board may establish affirmative and negative covenants, easements, and restrictions ("Use Guidelines and Restrictions").

All provisions of this Declaration and of any Association rules shall also apply to all occupants, tenants, guests, and invitees of any Unit. Any lease on any Unit shall provide that the lessee and all occupants of the leased Unit shall be bound by the terms of this Declaration, the By-Laws, and the rules of the Association.

Declarant promulgates Hideout Canyon general plan of development in order to protect all Owners' quality of life and collective interests, the aesthetics and environment within the Properties, and the vitality of and sense of community within Hideout Canyon all subject to the Board's and the Members' ability to respond to changes in circumstances, conditions, needs, and desires within the master planned community.

Declarant has prepared initial Use Guidelines and Restrictions which contain general provisions applicable to all of the Properties, as well as specific provisions which may vary within the Properties depending upon the location, characteristics, and intended use. Such initial Use Guidelines and Restrictions are set forth in Section 12.6. Based upon these Use Guidelines and Restrictions, the Board shall adopt the initial rules at its initial organizational meeting.

12.2 Board Power. Subject to the terms of this Article XII and to its duty of care and undivided loyalty to the Association and its Members, the Board shall implement and manage the Use Guidelines and Restrictions through rules which adopt, modify, cancel, limit, create exceptions to, or expand the Use Guidelines and Restrictions. Prior to any such action, the Board shall conspicuously publish notice of the proposal at least five business days prior to the Board meeting at which such action is to be considered. Owners shall have a reasonable opportunity to be heard at a Board meeting prior to action being taken.

The Board shall send a copy of any proposed new rule or amendment to each Owner at least 30 days prior to its effective date. The rule shall become effective unless disapproved at a meeting by Voting Members representing at least 66 2/3% of the total Class "A" votes and by the Declarant so long as the Declarant owns property subject to this Declaration, or which may become subject to the Declaration.

The Board shall have all powers necessary and proper, subject to its exercise of sound business judgment and reasonableness, to effect the powers contained in this Section 12.2.

The Board shall provide, without cost, a copy of the Use Guidelines and Restrictions and rules then in effect to any requesting Member or Mortgagee.

12.3 Members' Power. The Voting Members, at a meeting duly called for such purpose as provided in Section 2.4 of the By-Laws, may adopt, repeal, modify, limit, and expand Use Guidelines and Restrictions and implementing rules by a vote of 66 2/3% of the total Class "A" votes and the approval of the Declarant so long as the Declarant owns property subject to this Declaration or which may become subject to the Declaration.

12.4 Owners' Acknowledgment. All Owners are subject to the Use Guidelines and Restrictions and are given notice that (a) their ability to use their privately owned property is limited thereby, and (b) the Board may add, delete, modify, create exceptions to, or amend the Use Guidelines and Restrictions in accordance with Sections 12.2, 12.3, and 17.2.

Each Owner by acceptance of a deed acknowledges and agrees that the use and enjoyment and marketability of his or her property can be affected by this provision and that the Use Guidelines and Restrictions and rules may change from time to time.

12.5 Rights of Owners. Except as may be specifically set forth in Section 12.6, the Board may not adopt any rule in violation of the following provisions:

(a) Equal Treatment. Similarly situated Owners and occupants shall be treated similarly.

(b) Household Composition. No rule shall interfere with the freedom of occupants of Units to determine the composition of their households, except that the Association shall have the power to require that all occupants be members of a single housekeeping unit and to limit the total number of occupants permitted in each Unit on the basis of the size and facilities of the Unit and its fair share use of the Common Area, including parking.

(c) Activities Within Unit. No rule shall interfere with the activities carried on within the confines of Units, except that the Association may prohibit activities not normally associated with property restricted to residential use, and it may restrict or prohibit any activities that create monetary costs for the Association or other Owners, that create a danger to the health or safety of occupants of other Units, that generate excessive noise or traffic, that create unsightly conditions visible outside the Unit, that block the views from other Units, or that create an unreasonable source of annoyance.

(d) Animal Restrictions. No insects, reptiles, poultry or animals of any kind shall be raised, bred or kept on or within any Unit, dwelling or otherwise within the Properties, except that usual and ordinary dogs, cats, fish, birds, and other household pets (excluding without limitation, equine, bovine, sheep, swine, goats and other such animals) may be kept on or within the Units, subject to rules and regulations adopted by the Association, and provided that they are not kept, bred or maintained for commercial purposes or in unreasonable quantities. As used in this Declaration, "unreasonable quantities" shall ordinarily mean more than two (2) pets per household, provided, however, that the Association (or DRC or other such person or entity as the Association may from time to time designate) may determine that a reasonable number in any instance may be more or less. The Association acting through the Board, shall have the right to prohibit maintenance of any animal which constitutes, in the opinion of the Board, a nuisance to any other Owner. Animals belonging to Owners, occupants or their licensees, tenants or invitees within the

Properties must be either kept within an enclosure, or on a leash being held by a person capable of controlling said animals. The enclosure must be so maintained that the animal cannot escape therefrom and shall be subject to the approval of the DRC. Should any animal belonging to an Owner be found unattended, out of the enclosure, or not being held on a leash by a person capable of controlling the animal, such animal may be removed by the Association or a person designated by the Association to do so, to a shelter under the jurisdiction of the local governmental entity in which the Properties are situated and subject to the laws and rules governing such shelter, or to a comparable animal shelter. Furthermore, any Owner shall be absolutely liable to each and all remaining Owners, their families, guest, tenants, and invitees, for any reasonable noise or damage to person or property caused by any animals brought or kept within the Properties by an Owner or by members of his family, his tenants or guests; and it shall be the absolute duty and responsibility of each such Owner to clean up after such animals which have used area within the Properties. All dog kennels must be within a fenced enclosure located no more than five feet from the house. In no circumstance may a dog kennel exceed 200 square feet in total area. All fenced enclosures must be approved in writing by the DRC prior to their installation.

(e) Allocation of Burdens and Benefits. The initial allocation of financial burdens and rights to use Common Areas among the various Units shall not be changed to the detriment of any Owner over that Owner's objection expressed in writing to the Association. Nothing in this provision shall prevent the Association from changing the Common Areas available, from adopting generally applicable rules for use of Common Areas, or from denying use privileges to those who abuse the Common Area, violate rules of this Declaration, or fail to pay assessments. This provision does not affect the right to increase the amount of assessments as provided in Article X.

(f) Rights to Develop. No rule or actions by the Association or Board shall unreasonably impede Declarant's right to develop in accordance with the Master Plan.

#### 12.6 Initial Use Guidelines and Restrictions.

(a) General. The Properties shall be used only for residential, recreational, and related purposes (which may include, without limitation, offices for any property manager retained by the Association or business offices for the Declarant or the Association consistent with this Declaration and any Supplemental Declaration) and for commercial purposes within the areas designated for such purposes. The Properties are located within the Jordanelle Special Service District. The JSSD provides culinary water and sanitary sewer service to the properties within such district. As long as the Properties are located within the JSSD and the JSSD provides such services to the Properties, then all Units are required to connect to the JSSD's centralized water and sanitary sewer systems and receive culinary water and sanitary sewer service through the JSSD.

(b) Restricted Activities. The following activities are prohibited within the Properties unless expressly authorized by, and then subject to such conditions as may be imposed by, the Board:

(i) posting of signs of any kind (including "for sale," "for rent," or similar signs) except those required by law, including posters, circulars and billboards, provided that the Declarant shall be entitled to post signs consistent with the development concept;

(ii) parking of commercial vehicles, recreational vehicles, mobile homes, boats or other watercraft, or other oversized vehicles, stored vehicles or inoperable vehicles in places other than enclosed garages;

(iii) subdivision of a Unit into two or more Units after a subdivision plan including such Unit has been approved and filed with the appropriate governmental authority, or changing the boundary lines of any Unit, except that the Declarant shall be permitted to subdivide or change the boundary lines of Units that it owns and development pods may be further subdivided as contemplated on the applicable plat;

(iv) active use of lakes, ponds, streams, or other bodies of water within the Properties or within any Golf Course, except that the owner of the Golf Course and its agents, successors and assigns, shall have the exclusive right and easement to retrieve golf balls from bodies of water within the Common Areas which are within range of golf balls hit from the Golf Course. The Association shall not be responsible for any loss, damage, or injury to any person or property arising out of the authorized or unauthorized use of lakes, ponds, streams or other bodies of water within or adjacent to the Properties;

(v) operation of a fraction-sharing program exceeding five Owners whereby the right to exclusive use of the Unit rotates among participants in the program on a fixed or floating time schedule over a period of years, except that Declarant and its assigns may operate such a program with respect to Units which it owns;

(vi) occupancy of a Unit by more than a single family. For purposes of this restriction, a single family shall be defined as any number of persons related by blood, adoption, or marriage living with not more than one person who is not so related as a single household unit, or no more than three persons who are not so related living together as a single household unit;

(vii) capturing, trapping or killing wildlife within the Properties, except in circumstances posing an imminent threat to the safety of persons using the Properties, and raising, breeding or keeping animals, livestock, or poultry of any kind, except that a reasonable number of dogs, cats, or other usual and common households may be permitted in a Unit as provided herein;

(viii) activities which materially disturb or destroy the vegetation, wildlife, or air quality within the Properties, or which use excessive amounts of water, or which result in unreasonable levels of sound or light pollution;

(ix) any construction, erection, or placement of signs, ornamentation or other objects or equipment, permanently or temporarily, on the outside portions of the Unit, whether such portion is improved or unimproved;

(x) no rubbish, trash or garbage or other waste material shall be kept or permitted on or within any Unit, dwelling, or otherwise within the Properties, except in sanitary containers located in appropriate areas screened and concealed from view, and no odor shall be permitted to arise therefrom so as to render the Properties, or any portion thereof, unsanitary, unsightly, offensive or detrimental to any other property in the vicinity thereof or to its occupants.

Such containers shall be exposed to the view of neighboring Units only when set out for a reasonable period of time (not to exceed twenty-four (24) hours before and after scheduled trash collection hours);

(xi) the discharge of firearms within the Properties is prohibited. The term "firearms" includes B-B guns, pellet guns, bows and arrows, and other firearms of all types, regardless of size. Notwithstanding anything to the contrary contained herein, or in the By-Laws, the Association shall not be obligated to take action to enforce this provision; and

(xii) Any business, trade, garage sale, moving sale, rummage sale, or similar activity, except that an Owner or occupant residing in a Unit may conduct business activities within the Unit so long as (a) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from outside the Unit; (b) the business activity conforms to all zoning requirements for the Properties; (c) the business activity does not involve regular visitation of the Unit by clients, customers, suppliers, or other business invitees or door-to-door solicitation of residents of the Properties; and (d) the business activity is consistent with the residential character of the Properties and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Properties, as may be determined in the sole discretion of the Board.

This subsection shall not apply to any activity conducted by the Declarant or a Builder approved by the Declarant with respect to its development and sale of the Properties or its use of any Units which it owns within the Properties, including the operation of a timeshare or similar program.

The leasing of a Unit shall not be considered a business or trade within the meaning of this subsection. "Leasing", for purposes of this Declaration, is defined as regular, exclusive occupancy of a Unit by any person other than the Owner, for which the Owner receives any consideration or benefit, including but not limited to a fee, service, gratuity, or emolument. Units may be leased only in their entirety. No fraction or portion may be leased. No structure or Unit other than the primary residential dwelling shall be leased or otherwise occupied for residential purposes. There shall be no subleasing of Units or assignment of leases unless prior written approval is obtained from the Board. All leases shall be in writing.

No transient tenants may be accommodated in a Unit and all leases shall be for an initial term of no less than 30 days, except: (a) with the prior written consent of the Board, or (b) as initially authorized by Declarant in Exhibit "A" or a Supplemental Declaration for Units located within certain areas. The Owners may not amend this provision to prohibit leasing of Units within certain areas authorized by Declarant for rental to transient tenants and for a term less than 30 days until: (a) 75% of the Units within the particular area are owned by Retail Owners; and (b) with approval of 75% of the Class "A" Members, other than the Declarant, within that particular area.

Notice of any lease, together with such additional information as may be required by the Board, shall be given to the Board by the Unit Owner within ten (10) days of execution of the lease. The Owner must make available to the lessee copies of the Declaration, By-Laws, and the rules and regulations. The Board may adopt reasonable rules regulating leasing and subleasing.

(c) Prohibited Conditions. The following shall be prohibited within the Properties:

(i) exterior antennas, aerials, satellite dishes, or other apparatus for the transmission or reception of television, radio, satellite, or other signals of any kind unless completely contained within the dwelling on the Unit so as not to be visible from outside the dwelling or otherwise approved pursuant to Article XI; provided the Declarant and the Association shall have the right, without obligation, to erect or install and maintain such apparatus for the benefit of all or a portion of the Properties;

(ii) sprinkler or irrigation systems or wells of any type which draw upon water from creeks, streams, ponds, or other ground or surface waters within the Properties; except that Declarant, the Association and the Golf Course shall have the right to collect and divert storm water runoff from streets and other hard surfaces for irrigation and other purposes;

(iii) hedges, walls, dog runs, animal pens, or fences of any kind on any Unit except as approved in accordance with Article XI;

(iv) fences are not permitted in the Properties to allow for wildlife migration and movement. Low (no more than 3' in height) decorative stone/landscape fences may be allowed at the discretion of the DRC;

(v) open garage doors. Garage doors shall remain closed at all times except when entering and exiting the garage; and

(vi) excessive exterior lighting on any Unit. The Board shall in its sole discretion determine whether any exterior lighting is excessive. Exterior lighting shall be screened as set forth in the Design Guidelines.

#### Article XIII EASEMENTS

13.1 Easements of Encroachment. There shall be reciprocal appurtenant easements of encroachment, and for maintenance and use of any permitted encroachment, between each Unit and any adjacent Common Area and between adjacent Units due to the unintentional placement or settling or shifting of the improvement constructed, reconstructed, or altered thereon (in accordance with the terms of these restrictions) to a distance of not more than three feet, as measured from any point on the common boundary along a line perpendicular to such boundary. However, in no event shall an easement for encroachment exist if such encroachment occurred due to willful and knowing conduct on the part of, or with the knowledge and consent of, an Owner, occupant, or the Association.

13.2 Easements for Utilities, Etc. There are hereby reserved unto Declarant, so long as the Declarant owns any property described on Exhibits "A" or "B" of this Declaration, the Association, and the designees of each (which may include, without limitation, Wasatch County, Utah and any utility) access and maintenance easements upon, across, over, and under all of the Properties to the extent reasonably necessary for the purpose of replacing, repairing, and maintaining cable television

systems, master television antenna systems, security and similar systems, roads, walkways, bicycle pathways, trails, ponds, wetlands, irrigation systems, drainage systems, street lights, signage, and all utilities, including, but not limited to, water, sewers, meter boxes, telephone, gas, and electricity, and for the purpose of installing any of the foregoing on property which it owns or within easements designated for such purposes on recorded plats of the Properties. This easement shall not entitle the holders to construct or install any of the foregoing systems, facilities, or utilities over, under or through any existing dwelling on a Unit, and any damage to a Unit resulting from the exercise of this easement shall promptly be repaired by, and at the expense of, the person exercising the easement. The exercise of this easement shall not unreasonably interfere with the use of any unit and, except in an emergency, entry onto any Unit shall be made only after reasonable notice to the Owner or occupant.

Declarant specifically grants to the local water supplier, electric company, telephone company, cable TV company, and natural gas supplier easements across the Properties for ingress, egress, installation, reading, replacing, repairing, and maintaining utility meters and boxes. However, the exercise of this easement shall not extend to permitting entry into the dwelling on any Unit, nor shall any utilities be installed or relocated on the Properties, except as approved by the Declarant.

13.3 Easements to Serve Additional Property. The Declarant hereby reserves for itself and its duly authorized agents, representatives, employees, successors, assigns, licensees, and mortgagees, an easement over the Common Area for the purposes of enjoyment, use, access, and development of the property described in Exhibit "B", whether or not such property is made subject to this Declaration. This easement includes, but is not limited to, a right of ingress and egress over the Common Area for construction of roads and for connecting and installing utilities on such property. Declarant agrees that it and its successors or assigns shall be responsible for any damage caused to the Common Area as a result of vehicular traffic connected with development of such property. Declarant further agrees that if the easement is exercised for permanent access to such property and such property or any portion thereof is not made subject to this Declaration, the Declarant, its successors or assigns shall enter into a reasonable agreement with the Association to share the cost of maintenance of any access roadway serving such property.

13.4 Easements for Golf Course.

(a) Every Unit and the Common Area are burdened with an easement permitting golf balls unintentionally to come upon such Common Area and Units and for golfers at reasonable times and in a reasonable manner to come upon the Common Area or the exterior portions of a Unit to retrieve errant golf balls. The existence of this easement shall not relieve golfers of liability for damage caused by errant golf balls. Under no circumstances shall any of the following Persons be held liable for any damage or injury resulting from errant golf balls or the exercise of this easement: the Declarant; the Association or its Members (in their capacity as such); Mustang Development, LLC, its successors, successors-in-title to the Golf Course, or assigns; any successor Declarant; any Builder or contractor (in their capacities as such); any officer, director or partner of any of the foregoing, or any officer or director of any partner.

(b) The Owner of the Golf Course, its respective agents, successors and assigns, shall at all times have a right and non-exclusive easement of access and use over those portions of

the Common Areas reasonably necessary, with or without the use of maintenance vehicles and equipment, for the operation, maintenance, repair and replacement of the Golf Course.

(c) The Properties immediately adjacent to the Golf Course are hereby burdened with a non-exclusive easement in favor of the Golf Course for overspray of water, materials used in connection with fertigation, and effluent from irrigation system serving the Golf Course. Under no circumstances shall the Association or the Owner of the Golf Course be held liable for any damage or injury resulting from such overspray or the exercise of this easement.

(d) The Owner of the Golf Course, its respective agents, successors and assigns, shall have a perpetual, exclusive easement of access over the properties for the purpose of retrieving golf balls from bodies of water within the Common Areas lying reasonably within range of golf balls hit from the Golf Course.

(e) The Owner of the Golf Course, its respective agents, successors and assigns, as well as its guests, invitees, employees, and authorized users of the Golf Course, shall at all times have a right and non-exclusive easement of access and use over all roadways and golf cart paths, if any, located or to be located within the Properties at reasonable times before, during and after golf tournaments and other similar functions held at the Golf Course.

(f) The Owner of the Golf Course, its respective agents, successors and assigns, shall have a perpetual non-exclusive easement, to the extent reasonably necessary, over the Properties, for the installation, operation, maintenance, repair, replacement, monitoring and controlling of irrigation systems and equipment, including without limitation wells, pumps and pipelines, serving all or portions of the Golf Course.

(g) The Owner of the Golf Course, its respective agents, successors and assigns, shall have a perpetual, non-exclusive easement to the extent reasonably necessary, over the Properties for the installation, maintenance, repair, replacement and monitoring of utility lines, wires, drainage pipelines and pipelines, serving all or portions of the Golf Course.

(h) The Properties are hereby burdened with easements in favor of the Golf Course for natural drainage of storm water runoff from the Golf Course.

(i) The properties are hereby burdened with easements in favor of the Golf Course for golf cart paths serving the Golf Course. Under no circumstances shall the Association or the Owner of the Golf Course be held liable for any damage or injury resulting from the exercise of this easement.

(j) The Owner of the Golf Course, its respective agents, successors and assigns, as well as its guests, invitees, employees, and authorized users of the Golf Course, shall at all times have a right and non-exclusive easement to access and use over the golf cart paths located within the Properties.

13.5 Easement for Cross-Drainage. Every Unit and the Common Area shall be burdened with easements for natural drainage of storm water runoff from other portions of the Properties, provided no person shall alter the natural drainage on any Unit so as to materially increase the

drainage of storm water onto adjacent portions of the Properties without the consent of the Owner of the affected property.

13.6 Right of Entry. The Association shall have the right, but not the obligation, to enter upon any Unit for emergency, security, and safety reasons, to perform maintenance pursuant to Article V hereof, and to inspect for the purpose of ensuring compliance with this Declaration, any Supplemental Declaration, By-Laws, and rules, which right may be exercised by any Member of the Board, the Association, officers, agents, employees, and managers, and all policemen, firemen, ambulance personnel, and similar emergency personnel in the performance of their duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner. This right of entry shall include the right of the Association to enter upon any Unit to cure any conditions which may increase the possibility of a fire or other hazard in the event an Owner fails or refuses to cure the condition within a reasonable time after requested by the Board, but shall not authorize entry into any single family detached dwelling without permission of the Owner, except by emergency personnel acting in their official capacities.

13.7 Assumption of Risk and Indemnification; Maintenance. Each Owner, by its purchase of a lot or Unit in the vicinity of the Golf Course, hereby expressly assumes the risk of noise, personal injury or property damage caused by maintenance and operation of the Golf Course, including, without limitation: (a) noise from maintenance equipment (it being specifically understood that maintenance typically takes place around sunrise and/or sunset), (b) noise caused by golfers, (c) use of pesticides, herbicides and fertilizers, (d) use of effluent in the irrigation of the Golf Course, (e) reduction in privacy caused by golf traffic on the Golf Course or the removal or pruning of shrubbery or trees on the Golf Course, (f) errant golf balls and golf clubs, and (g) design of the Golf Course.

Each such Owner agrees that neither Declarant, the Association, the Owner of the Golf Course, nor any of its or their affiliates or agents shall be liable to such Owner or any other person claiming any loss or damage, including, without limitation, indirect destruction of property, trespass, loss of enjoyment or any other alleged wrong or entitlement to remedy based upon, due to, arising from or otherwise related to the proximity of Owner's lot or Unit to the Golf Course, including, without limitation, any claim arising in whole or in part from the negligence of Declarant, the Association, the Owner of the Golf Course or any of its or their affiliates or agents. The Owner hereby agrees to indemnify and hold harmless Declarant, the Association, the Owner of the Golf Course and its or their affiliates and agents from and against any and all claims by such Owner's visitors, tenants and others upon such Owner's lot or Unit.

Proper golf course maintenance requires adequate pest management. The Golf Course operator shall be allowed to take any actions necessary to control pests on the Golf Course or adjacent Properties without any interference.

#### Article XIV MORTGAGE PROVISIONS

14.1 Conflict. Notwithstanding any contrary provisions contained elsewhere in this Declaration, the By-Laws or any Supplemental Declaration, the provisions of this Article shall control with respect to the rights and obligations of Mortgagees specified herein.

14.2 Liability for Unpaid Assessments. Any first Mortgagee who obtains title to a Unit pursuant to remedies provided in the first Mortgage (except upon a voluntary conveyance to the first Mortgagee) or by foreclosure of the first Mortgage shall take the property free of any claims for unpaid assessments or charges hereunder against the Unit which accrue prior to the acquisition of title to the Unit by the first Mortgagee.

14.3 Inspection of Books and Records. Upon request, any Owner, or first Mortgagee shall be entitled to inspect and copy books, records and financial statements of the Association, this Declaration, the By-Laws and any Supplemental Declaration and any amendments thereto during normal business hours.

14.4 Financial Statements for Mortgagees. The Association, at its expense, shall prepare a financial statement for the immediately preceding fiscal year. The financial statement shall be available within one hundred twenty (120) days of the end of the Association's fiscal year. The Association shall provide a copy of the financial statement to any Mortgagee who makes a written request.

14.5 Mortgage Protection. A breach of any of the conditions or the enforcement of any lien provisions contained in this Declaration shall not defeat or render invalid the lien of any first Mortgage made in good faith and for value as to any Unit; but all of the covenants, conditions and restrictions contained in this Declaration shall be binding upon and effective against any Owner of a Unit if the Unit is acquired by foreclosure, trustee's sale or otherwise.

#### Article XV DECLARANT'S RIGHTS

15.1 Transfer. Any or all of the special rights and obligations of the Declarant set forth in this Declaration or the By-Laws may be transferred to other Persons, provided that the transfer shall not reduce an obligation nor enlarge a right beyond that contained in this Declaration or the By-Laws. No such transfer shall be effective unless it is in a written instrument signed by the Declarant and duly recorded in the Office of the County Recorder. Nothing in this Declaration shall be construed to require Declarant or any successor to develop any of the property set forth in Exhibit "B" in any manner whatsoever.

So long as construction and initial sales of Units shall continue, the Declarant and Builders authorized by Declarant may maintain and carry on upon portions of the Common Area such facilities and activities as, in the sole opinion of the Declarant, may be reasonably required, convenient, or incidental to the construction or sale of such Units, including but not limited to business offices, signs, model units, and sales offices. The Declarant's or Builder's unilateral right to use the Common Area for the purposes stated in this paragraph shall not be exclusive and shall not unreasonably interfere with use of such Common Areas by Owners unless leased pursuant to a lease agreement with the Association providing for payment of reasonable rent.

No Person shall record any declaration of covenants, conditions and restrictions, or declaration of condominium or similar instrument affecting any portion of the Properties without Declarant's review and written consent. Any attempted recording without such consent shall result

in such instrument being void and of no force and effect unless subsequently approved by recorded consent signed by the Declarant.

The Declarant, in its sole discretion, may convert all or part of the Properties in Exhibits "A" and/or "B" to a "mini destination resort" or "destination resort" ("Resort"). If additional or substitute restrictions are appropriate or required under the Resort designation, the Declarant shall have sole discretion in making those changes. By purchasing a Unit in Hideout Canyon each Owner expressly consents to such conversion to Resort status and to such additional or substitute restrictions and no further consent shall be required from any Owner.

This Article may not be amended without the written consent of the Declarant. The rights contained in this Article shall terminate upon the earlier of (a) 40 years after the conveyance of a Unit to a Retail Owner, or (b) upon recording by Declarant of a written statement that all sales activity has ceased. Thereafter, the Declarant or Builders may continue to use the Common Areas for purposes stated in this Section only pursuant to a rental or lease agreement between the Declarant or such Builder and the Association which provides for rental payments based on the fair market rental value of any such portion of the Common Areas.

15.2 Ownership and Operation of Golf Course. All Persons, including all Owners, are hereby advised that no representations or warranties have been or are made by the Declarant or any other Person with regard to the construction, continued existence, ownership or operation of the Golf Course, if any, and no purported representation or warranty in such regard, either written or oral, shall ever be effective without an amendment to this Declaration executed or joined into by the Declarant. Further, the ownership and/or operation of the Golf Course, if any, may change at any time and from time to time by virtue of, but without limitation, (a) the sale to, or assumption of operations of the Golf Course by an independent entity or entities; (b) the creation or conversion of the ownership and/or operating structure of the Golf Course to an "equity" club or similar arrangement whereby the Golf Course or the rights to operate it are transferred to an entity which is owned or controlled by its members; or (c) the transfer of ownership or control of the Golf Course to one or more affiliates, shareholders, employees, or independent contractors of the Declarant. No consent of the Association or any Owner shall be required to effectuate such transfer or conversion.

15.3 Right to Use. Neither membership in the Association nor Ownership or occupancy of a Unit shall confer any ownership interest in or right to use the Golf Course. Rights to use the Golf Course will be granted only to such persons, and on such terms and conditions, as may be determined from time to time by the owner of the Golf Course. The owner of the Golf Course shall have the right from time to time in its sole and absolute discretion and without notice, to amend or waive the terms and conditions of use of the Golf Course, including without limitation eligibility for and duration of use rights, categories of use and extent of use privileges, and number of users, and shall also have the right to reserve use rights and to terminate use rights altogether, subject to the provisions of any outstanding membership documents.

15.4 View Impairment. Neither the Declarant, the Association nor the owner or operator of the Golf Course guarantees or represents that any view over and across the Golf Course from adjacent Units will be preserved without impairment. The owner of the Golf Course, if any, shall have no obligation to prune or thin trees or other landscaping, and shall have the right, in its sole and absolute discretion, to add trees and other landscaping to the Golf Course from time to time. In

addition, the owner of the Golf Course may, in its sole and absolute discretion, change the location, configuration, size and elevation of the tees, bunkers, fairways and greens on the Golf Course from time to time. Any such additions or changes to the Golf Course may diminish or obstruct any view from the Units and any express or implied easements for view purposes or for the passage of light and air are hereby expressly disclaimed.

15.5 Limitations on Amendments. In recognition of the fact that the provisions of this Article are for the benefit of the owner of the Golf Course, no amendment to this Article, and no amendment in derogation of any rights reserved or granted to the owner of the Golf Course by other provisions of this Declaration, may be made without the written approval of the owner of the Golf Course. The foregoing shall not apply, however, to amendments made by the Declarant.

15.6 Jurisdiction and Cooperation. It is the Declarant's intention that the Association and the owner of the Golf Course shall cooperate to the maximum extent possible in the operation of the Properties and the Golf Course. Each shall reasonably assist the other in upholding the Community-Wide Standard. The Association shall have no power to promulgate rules and regulations affecting activities on or use of the Golf Course.

#### Article XVI DISPUTE RESOLUTION AND LIMITATION ON LITIGATION

16.1 Agreement to Avoid Costs of Litigation and to Limit Right to Litigate Disputes. The Association, Declarant, Owners, all Persons subject to this Declaration, and any Person not otherwise subject to this Declaration who agrees to submit to this Article (collectively, "Bound Parties"), agree to encourage the amicable resolution of disputes involving the Properties, and to avoid the emotional and financial costs of litigation if at all possible. Accordingly, each Bound Party covenants and agrees that all claims, grievances or disputes between such Bound Party and any other Bound Party involving the Properties, including without limitation claims, grievances or disputes arising out of or relating to the interpretation, application or enforcement of this Declaration, the By-Laws, the Association rules, or the Articles of Incorporation (collectively "Claim"), except for those claims authorized in Section 16.2, shall be subject to the procedures set forth in Section 16.3.

16.2 Exempt Claims. The following Claims ("Exempt Claims") shall be exempt from the provisions of Section 16.3:

- (a) any suit by the Association against any Bound Party to enforce the provisions of Article X;
- (b) any suit by the Association to obtain a temporary restraining order (or equivalent emergency equitable relief) and such other ancillary relief as the court may deem necessary in order to maintain the status quo and preserve the Association's ability to enforce the provisions of Article XI and Article XII; and
- (c) any suit between Owners (other than Declarant) seeking redress on the basis of a Claim which would constitute a course of action under the law of the State of Utah in the

absence of a Claim based on the Declaration, By-Laws, Articles or rules of the Association, if the amount in controversy exceeds \$5,000.00.

Any Bound Party having an Exempt Claim may submit it to the alternative dispute resolution procedures set forth in Section 16.3, but there shall be no obligation to do so.

16.3 Mandatory Procedures For All Other Claims. Any Bound Party having a Claim ("Claimant") against any other Bound Party ("Respondent"), other than a Claim exempted from this provision by Section 16.2, shall not file suit in any court or initiate any proceeding before any administrative tribunal seeking redress or resolution of such Claim until it has complied with the following procedures:

(a) Notice. The Claimant shall notify each Respondent in writing of the Claim ("Notice"), stating plainly and concisely:

(i) the nature of the Claim, including date, time, location, persons involved, Respondents's role in the Claim and the provisions of this Declaration, the By-Laws, the rules, the Articles of Incorporation or other authority out of which the Claim arises;

(ii) the basis of the Claim (i.e., the provisions of the Declaration, By-Laws, rules or Articles triggered by the Claim);

(iii) what Claimant wants Respondent to do or not do to resolve the Claim;  
and

(iv) that Claimant wishes to resolve the Claim by mutual agreement with Respondent, and is willing to meet in person with Respondent at a mutually agreeable time and place to discuss in good faith ways to resolve the Claim.

(b) Negotiation.

(i) Each Claimant and Respondent ("Parties") shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation.

(ii) Upon receipt of a written request from any Party, accompanied by a copy of the Notice, the Board may appoint a representative to assist the Parties in resolving the dispute by negotiation, if in its discretion it believes its efforts will be beneficial to the Parties and to the welfare of the community.

(c) Mediation.

(i) If the Parties do not resolve the Claim through negotiation within 30 days of the date of the Notice (or within such other period as may be agreed upon by the Parties) ("Termination of Negotiations"), Claimant shall have 30 additional days within which to submit the Claim to mediation under the auspices of the Neighborhood Mediation Center in Salt Lake City, Utah, or such other independent agency providing similar services upon which the parties may mutually agree.

(ii) If Claimant does not submit the Claim to mediation within 30 days after Termination of Negotiations, Claimant shall be deemed to have waived the Claim, and Respondent shall be released and discharged from any and all liability to Claimant on account of such Claim; provided, nothing herein shall release or discharge Respondent from any liability to Persons not a Party to the foregoing proceedings.

(iii) If the Parties do not settle the Claim within 30 days after submission of the matter to the mediation process, the mediator shall, within five days of the termination of the mediation proceedings, provide the Parties with a written non-binding recommendation for resolution of the Claim ("Mediator's Recommendation").

(d) Final and Binding Arbitration.

(i) If the Parties do not agree in writing to accept the Mediator's Recommendation within 10 days after receipt of notice thereof, the Claimant shall have 30 additional days to submit the Claim to arbitration in accordance with the Rules of Arbitration contained in Exhibit "D" or the Claim shall be deemed abandoned, and Respondent shall be released and discharged from any and all liability to Claimant arising out of such Claim; provided nothing herein shall release or discharge Respondent from any liability to Persons not a Party to the foregoing proceedings.

(ii) This subsection (d) is an agreement of the Bound Parties to arbitrate all Claims except Exempt Claims and is specifically enforceable under the applicable arbitration law of the State of Utah. The arbitration award (the "Award") shall be final and binding, and judgment may be entered upon it in any court of competent jurisdiction to the fullest extent permitted under the laws of the State of Utah.

16.4 Allocation of Costs of Resolving Claims.

(a) Each Party shall bear all of its own costs incurred prior to and during the proceedings described in Section 16.3 (a), (b), and (c), including the fees of its attorney or other representative. Each Party shall share equally all charges rendered by the mediator(s) pursuant to Section 16.3(c).

(b) Each Party shall bear all of its own costs (including the fees of its attorney or other representative) incurred after the termination of mediation under Section 16.3(c) and shall share equally in the costs of conducting the arbitration proceeding (collectively, "Post Mediation Costs"), except as otherwise provided in this subsection; provided, however, if the Claim is rejected in whole or in part, the Claimant shall pay all Post Mediation costs, including the costs incurred by the Respondent.

16.5 Enforcement of Resolution. If the Parties agree to resolve any Claim through negotiation or mediation in accordance with Section 16.3 and any Party thereafter fails to abide by the terms of such agreement, or if the Parties agree to accept the Award following arbitration and any Party thereafter fails to comply with such Award, then any other party may file suit or initiate administrative proceedings to enforce such agreement of Award without the need to again comply

with the procedures set forth in Section 16.3. In such event, the Party taking action to enforce the agreement or Award shall be entitled to recover from the non-complying Party (or if more than one non-complying Party, from all such Parties pro rata) all costs incurred in enforcing such agreement or Award, including without limitation attorney fees and court costs.

Article XVII  
GENERAL PROVISIONS

17.1 Term. This Declaration shall run with and bind the Properties, and shall inure to the benefit of, and shall be enforceable by the Association or any Owner, their respective legal representatives, heirs, successors, and assigns, for a term of 60 years from the date this Declaration is recorded. After such time, this Declaration shall be automatically extended for successive periods of 10 years, unless an instrument in writing, signed by a majority of the Owners, has been recorded within the year preceding each extension, agreeing to amend, in whole or in part, or terminate this Declaration, in which case this Declaration shall be amended or terminated as specified therein.

17.2 Amendment.

(a) By Declarant.

(1) Prior to the conveyance of the first Unit to a Retail Owner, Declarant may unilaterally amend this Declaration. After the conveyance of any Unit, the Declarant may unilaterally amend this Declaration if such amendment is;

(i) necessary to bring any provision into compliance with any applicable governmental statute, rule, regulation, or judicial determination;

(ii) necessary to enable any reputable title insurance company to issue title insurance coverage on the Units;

(iii) required by an institutional or governmental lender, purchaser, insurer or guarantor of Mortgage loans, including for example the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to enable it to make, purchase, insure or guarantee Mortgage loans on the Units; or

(iv) otherwise necessary to satisfy the requirements of any governmental agency for approval of this Declaration. This Declaration may be amended in accordance with Section 17.2(b).

(2) Declarant may at any time amend this Declaration without consent of Owners, Board, or Association in connection with any conversion of the property to a Destination Resort as allowed in Section 15.1 herein.

(b) By Owners. Unless the Declarant has the right to amend this Declaration in accordance with Section 17.2(a), this Declaration may be amended only by the affirmative vote or written consent, or any combination thereof, of Voting Members representing 75% of each class of Members. After conversion of the Class "B" membership to Class "A" membership, the Declaration

may be amended by the vote or written consent of the Voting Members representing at least (a) 75% of the Members; and (b) 75% of the Members other than the Declarant.

In addition, the approval requirements set forth in Article XIV hereof shall be met if applicable. Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

(c) Validity and Effective Date of Amendments. Amendments to this Declaration shall become effective upon their being recorded in the Office of the County Recorder unless a later effective date is specified therein. Any procedural challenge to an amendment must be made within one year of its recording or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of this Declaration.

If an Owner consents to any amendment to this Declaration or the By-Laws, it will be conclusively presumed that such Owner has the authority to so consent, and no contrary provision in any Mortgage or contract between the Owner and a third party will affect the validity of such amendment.

No amendment may remove, revoke, or modify any right or privilege of the Declarant without the written consent of the Declarant or the assignee of such right or privilege.

17.3 Severability. Invalidation of any provision of this Declaration, in whole or in part, or any application of a provision of this Declaration by judgment or court order shall in no way affect other provisions or applications.

17.4 Perpetuities. If any of the covenants, conditions, restrictions, or other provisions of the Declaration shall be unlawful, void, or voidable for violation of the rule against perpetuities, then such provisions shall continue only until twenty-one years after the death of the last survivor of the now living descendants of Elizabeth II, Queen of England.

17.5 Litigation. No judicial or administrative proceeding shall be commenced or prosecuted by the Association unless approved by Voting Members representing at least a majority of a quorum of the Class "A" Members. This Section shall not apply, however, to (a) actions brought by the Association to enforce the provisions of this Declaration (including, without limitation, the foreclosure of liens); (b) the impositions and collection of assessments as provided in Article X; (c) proceedings involving challenges to ad valorem taxation; or (d) counterclaims brought by the Association in proceedings instituted against it. This Section shall not be amended unless such amendment is approved by the percentage of votes, and pursuant to the same procedures, necessary to institute proceedings as provided above. This provision shall apply in addition to the provisions of Article XVI, if applicable.

17.6 Use of the Words "Hideout Canyon". No Person shall use the words "Hideout Canyon" or any derivative, or any other term which Declarant may select as the name of this development or any component thereof, in any printed or promotional material without the Declarant's prior written consent. However, Owners may use the words "Hideout Canyon" in

printed or promotional matter solely to specify that particular property is located within the Properties and the Association shall be entitled to use the words "Hideout Canyon" in its name.

17.7 Compliance. Every Owner and occupant of any Unit shall comply with this Declaration, the By-Laws, and the rules of the Association. Failure to comply shall be grounds for an action to recover sums due, for damages or injunctive relief, or for any other remedy available at law or in equity, by the Association or, in a proper case, by an aggrieved Unit Owner(s).

17.8 Attorneys' Fees. In the event of an action instituted to enforce any of the provisions contained in this Declaration, the Articles of Incorporation or the By-Laws, the party prevailing in such action shall be entitled to recover from the other party thereto as part of the judgment, reasonable attorneys' fees and costs of such suit. In the event the Association is a prevailing party in such action, the amount of such attorneys' fees and costs shall be a Special Assessment with respect to the Unit(s) involved in the action.

17.9 Enforcement of Bonded Obligations. In the event improvements to the Common Area have not been completed as may be required according to approval provisions covering the Properties by Wasatch County or other government entity authorizing the commencement of Unit sales (Commencement of Sales) and the Association, as a result of such lack of completion, is an obligee under a bond or other arrangement ("Bond") to secure performance of the commitment of the Declarant or a Builder to complete such improvements, the following shall apply:

(a) The Board shall consider and vote upon the question of action by the Association to enforce the obligations under the Bond with respect to any improvements for which a "Notice of Completion" (or similar notice) has not been filed within 60 days after the completion date specified for such improvement in the "planned construction statement" (or similar statement) appended to the Bond. If the Association has given an extension in writing for the completion of any Common Area improvement, the Board shall consider and vote on the aforesaid question if a "Notice of Completion" has not been filed within 30 days after the expiration of such an extension.

(b) In the event the Board determines not to initiate action to enforce the obligation under the Bond or in the event the Board fails to consider and vote upon such question as provided above, the Board shall call a special meeting of the Owners for the purpose of voting to override such decision or such failure to act by the Board. Such meeting shall be called according to the provisions of the By-Laws dealing with special meetings, but in any event, such meeting shall be held not less than 35 nor more than 45 days after receipt by the Board of a petition for such meeting, signed by Voting Members representing not less than 5% of the Members of the Association.

(c) Voting Members, other than the Declarant, shall be entitled to vote at such a meeting. A vote at such meeting of a majority of the Voting Members, other than Declarant, to take action to enforce the obligations under the Bond shall be deemed to be the decision of the Association, and the Board shall thereafter implement such decision by initiating and pursuing appropriate action in the name of the Association.

[Signature and Acknowledgement on Next Page]



IN WITNESS WHEREOF, the undersigned Declarant has executed this Declaration this 6<sup>th</sup> day of October, 2005.

MUSTANG DEVELOPMENT, LLC,  
a Utah limited liability company

By: [Signature]  
Name: ROBERT MARTINO  
Its: MANAGER

STATE OF UTAH )  
                  ) Summit :SS  
COUNTY OF ~~SALT LAKE~~ )

The foregoing instrument was acknowledged before me this 6<sup>th</sup> day of October, 2005, by Robert J. Martino, who executed the foregoing instrument in his capacity as the Managing Member of Mustang Development, LLC, a Utah limited liability company.

[Signature: Mae Mair]  
NOTARY PUBLIC  
Residing at: ~~6000~~ Heber City

My Commission Expires: 5-4-2009



EXHIBIT "A"

All of Lots 1 through 30, inclusive, all of Lots T-1 through T-8, inclusive, and all "Common Area" and "Limited Common Area", inclusive, **Hideout Canyon - Phase 1 - First Residential Plat**, according to the official plat thereof, recorded June 27, 2005, as Entry No. 284926 in Book 764 at Page No. 424 of the official records, in the Office of the Wasatch County Recorder, State of Utah.

Wasatch County Tax Serial Nos.: OHK-1001 through OHK-1030 and OHK-10T1 through OHK-10T8.

All of Lots 31, 32, 33, 34 and 35, and all "Common Area" and "Limited Common Area", inclusive, **Hideout Canyon Phase 1 - Pod 4 Residential Plat**, according to the official plat thereof, recorded September 12, 2005, as Entry No. 288568 in Book 785 at Page No. 197 of the official records, in the Office of the Wasatch County Recorder, State of Utah.

Wasatch County Tax Serial Nos.: OHK-1031, OHK-1032, OHK-1033, OHK-1034 and OHK-1035.

All of Lots C1, C2, C3, C4 and C5, **Hideout Canyon Commercial Phase**, according to the official plat thereof, recorded May 27, 2005, as Entry No. 283647 in Book 757 at Page No. 509 of the official records, in the Office of the Wasatch County Recorder, State of Utah.

Wasatch County Tax Serial Nos.: OHK-00C1, OHK-00C2, OHK-00C3, OHK-00C4 and OHK-00C5.

EXHIBIT "B"

All of the following described property, or any division of, or new mapping thereof:

The following described real property located in Wasatch County, State of Utah, together with all rights appurtenant thereto:

**Tract No. 1:**

Those portions of Government lots 5 and 6; the West one-half of the Southeast quarter; and the East one-half of the Southwest quarter of Section 17, Township 2 South, Range 5 East, Salt Lake Base and Meridian; lying Southerly and Westerly of the Southwesterly right of way line of the New State Highway 189, as set forth on the Right of Way Plans of the Utah Department of Transportation, Project No. NF-61(3).

**EXCEPTING THEREFROM** the following described Parcel:

A Parcel of land in said East one-half of the Southwest quarter and the Southwest quarter of the Southeast quarter of Section 17, more particularly described as follows:

Point of beginning lies South 88 degrees 32 minutes 14 seconds West 2400.00 feet along Section line from the Northeast corner of Section 20, Township 2 South, Range 5 East, said point has U.S.C. and G.S. plane grid coordinates North 839,790.42 feet and East 2,026,661.29 feet; thence South 88 degrees 32 minutes 14 seconds West 1589.7 feet along said Section line; thence North 00 degrees 28 minutes 53 seconds East 2666.2 feet along the West line of said East half of the Southwest quarter of Section 17; thence North 89 degrees 17 minutes 52 seconds East 500.00 feet along the North property line; thence South 22 degrees 04 minutes 00 seconds East 2839.7 feet to the point of beginning.

**Tract No. 2:**

Those portions of the Northeast quarter of Section 20, Township 2 South, Range 5 East, Salt Lake Base and Meridian lying Southerly and Westerly of the Southwesterly right of way line of the New State Highway 189, as set forth on the Right of Way Plans of the Utah Department of Transportation, Project No. NF-61(3).

**EXCEPTING THEREFROM** the following described Parcel:

A Parcel of land in said West one-half of the Northeast quarter of Section 20, more particularly described as follows:

Point of beginning lies South 88 degrees 32 minutes 14 seconds West 2400.00 feet along the Section line from the Northeast corner of Section 20, Township 2 South, Range 5 East, said point has U.S.C. and G.S. plane grid coordinates North 839,790.42 feet and East 2,026,661.29 feet; thence South 22 degrees 04 minutes 00 seconds East 2813.20 feet; thence South 88 degrees 45 minutes 02 seconds West 1290.20 feet along the South line of the Northeast quarter of said Section 20; thence North 00 degrees 44 minutes 35 seconds West 2628.70 feet along the West line of the Northeast quarter of Section 20; thence North 88 degrees 32 minutes 14 seconds East 267.20 feet along said Section line to the point of beginning.

**Tract No. 3:**

Those portions of Government lot 2 and the Southeast quarter of the Northwest quarter of Section 21, Township 2 South, Range 5 East, Salt Lake Base and Meridian, lying Southerly and Westerly of the Southwesterly right of way line of the New State Highway 189, as set forth on the Right of Way Plans of the Utah Department of Transportation, Project No. NF-61(3).

**EXCEPTING THEREFROM** any portions lying within I.X.L. No. 3 Patented Lode Mining Claim M.S. 5554.

**LESS AND EXCLUDING FROM ALL OF THE ABOVE:**

All of Lots 1 through 30, inclusive, all of Lots T-1 through T-8, inclusive, and all ACommon Area@ and ALimited Common Area@, inclusive, **Hideout Canyon - Phase 1 - First Residential Plat**, according to the official plat thereof, recorded June 27, 2005, as Entry No. 284926 in Book 764 at Page No. 424 of the official records, in the Office of the Wasatch County Recorder, State of Utah.

All of Lots 31, 32, 33, 34 and 35, and all ACommon Area@ and ALimited Common Area@, inclusive, **Hideout Canyon Phase 1 - Pod 4 Residential Plat**, according to the official plat thereof, recorded September 12, 2005, as Entry No. 288568 in Book 785 at Page No. 197 of the official records, in the Office of the Wasatch County Recorder, State of Utah.

All of Lots C1, C2, C3, C4 and C5, **Hideout Canyon Commercial Phase**, according to the official plat thereof, recorded May 27, 2005, as Entry No. 283647 in Book 757 at Page No. 509 of the official records, in the Office of the Wasatch County Recorder, State of Utah.

(2) Any real property now owned or hereafter acquired by Declarant within one (1) mile of the perimeter boundary of the above described property. Such property, if not now owned, must be acquired within ten (10) years of the date of recording of these restrictions.

EXHIBIT "C"

**BY-LAWS**

**OF**

**HIDEOUT CANYON HOME OWNERS ASSOCIATION**

ARTICLE I

**Name, Principal Office, and Definitions**

1.1 **Name.** The name of the Association shall be Hideout Canyon Home Owners Association ("Association").

1.2 **Principal Office.** The principal office of the Association in the State of Utah shall be located in Salt Lake County, Utah. The Association may have such other offices, either within or outside the State of Utah, as the Board may determine or as the Association may require.

1.3 **Definitions.** The words used in these By-laws shall be given their normal, commonly understood definitions. Capitalized terms shall have the same meaning as set forth in the Declaration of Covenants, Conditions, and Restrictions for Hideout Canyon filed in the Office of the County Recorder ("Declaration"), unless the context indicates otherwise.

ARTICLE II

**Association: Membership, Meetings, Quorum, Voting, Proxies**

2.1 **Membership.** The Association shall have two classes of membership, Class "A" and Class "B", as more fully set forth in the Declaration, the terms of which pertaining to membership are incorporated by reference.

2.2 **Place of Meetings.** Meetings of the Association shall be held at the principal office of the Association or at such other suitable place convenient to the Members as may be designated by the Board either within the Properties or as convenient thereto as possible and practical.

2.3 **Annual Meetings.** The first meeting of the Association, whether a regular or special meeting, shall be held within 45 days after the conveyance of 51% of the Units in the Properties to Retail Owners, but no later than six months after the first conveyance of a Unit to a Retail Owner after Commencement of Sales. Subsequent regular annual meetings shall be set by the Board so as to occur at least 30 days but not more than 120 days before the close of the Association's fiscal year on a date and at a time set by the Board.

2.4 **Special Meetings.** The President may call special meetings. In addition, it shall be the duty of the President to call a special meeting if so directed by resolution of the Board or upon a petition signed by Voting Members representing at least 10% of the Members of the Association. The Association shall

call a special meeting not later than 120 days after the Class "B" membership has terminated for the purpose of turning over administrative responsibility to the Association. If a Declarant fails to call the meeting, the Temporary Advisory Committee, if any, or any Owner may call the meeting in accordance with applicable law.

**2.5 Notice of Meetings.** Written or printed notice stating the place, day and hour of any meeting of the Voting Members shall be delivered, either personally or by mail, to each Voting Member entitled to vote at such meeting, not less than 10 nor more than 50 days before the date of such meeting, by or at the direction of the President, or the Secretary, or the officers, or persons calling the meeting.

In the case of a special meeting or when otherwise required by statute or these By-Laws, the purpose or purposes for which the meeting is called shall be stated in the notice. No business shall be transacted at a special meeting except as stated in the notice.

If mailed, the notice of a meeting shall be deemed to be delivered when deposited in the United States mail addressed to the Voting Member at his or her address as it appears on the records of the Association, with postage prepaid.

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

**2.7 Adjournment of Meetings.** If any meeting of the Association cannot be held because a quorum is not present, a majority of the Voting Members who are present at such meeting may adjourn the meeting to a time not less than 5 nor more than 30 days from the time the original meeting was called. At the reconvened meeting, if a quorum is present, any business may be transacted which might have been transacted at the meeting originally called. If a time and place of reconvening the meeting is not fixed by those in attendance at the original meeting or if for any reason a new date is fixed for reconvening the meeting after adjournment, notice of the time and place for reconvening the meeting shall be given to Voting Members in the manner prescribed for regular meetings.

The Voting Members present at a duly called or held meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough Voting Members to leave less than a quorum, provided that Voting Members representing at least 25% of the Members of the Association remain in attendance, and provided that any action taken is approved by at least a majority of the votes required to constitute a quorum.

**2.8 Voting.** The voting rights of the Members shall be set forth in the Declaration, and such voting rights provisions are specifically incorporated by reference. Voting of the Voting Members at a meeting may be by voice or ballot, except the election of directors which shall be by secret written ballot.

**2.9 Proxies.** Voting Members may vote by proxy. No proxy shall be valid unless it meets the requirements of U.C.A and is signed by the Owner or his or her duly authorized attorney-in-fact, dated, and filed with the Secretary of the Association prior to any meeting for which it is to be effective. No proxy shall be valid after one year from its date of execution unless otherwise specified in the proxy.

2.10 Majority. As used in these By-Laws, the term "majority" shall mean those votes, owners, or other group as the context may indicate totaling more than 50% of the total eligible number whether represented in person or by proxy.

2.11 Quorum. Except as otherwise provided in these By-Laws or in the Declaration, the presence of the Voting Members representing a majority of the total votes in the Association shall constitute a quorum at all meetings of the Association membership, whether personally present or present by proxy.

2.12 Conduct of Meetings. The President shall preside over all meetings of the Association, and the Secretary shall keep the minutes of the meeting and record in a minute book all resolutions adopted at the meeting, as well as record all transactions occurring at the meeting.

2.13 Action Without a Meeting. Any action required or permitted by law to be taken at a meeting of the membership may be taken without a meeting, without prior notice and without a vote if written consent specifically authorizing the proposed action is signed by Voting Members holding at least the minimum number of votes necessary to authorize such action at a meeting if all Voting Members entitled to vote thereon were present. Such consents shall be signed within 60 days after receipt of the earliest dated consent, dated and delivered to the Association at its principal place of business in the State of Utah. Such consents shall be filed with the minutes of the Association, and shall have the same force and effect as a unanimous vote of the Voting Members.

### ARTICLE III

#### **Board of Directors: Numbers, Powers, Meetings**

##### A. Composition and Selection.

3.1 Governing Body: Composition. The affairs of the Association shall be governed by a Board, each of whom shall have one equal vote. Except with respect to directors (a) appointed by the Class "B" Member during the Class "B" Control Period pursuant to Section 3.3, (b) elected by the Class "B" Member after the expiration of the Class "B" Control Period or (c) elected by the Class "A" votes held by Declarant after the conversion of the Class "B" membership to Class "A" membership pursuant to Section 3.3(b) of the Declaration, the directors shall be Members or spouses of such Members; provided, however, no person and his or her spouse may serve on the Board at the same time. In the case of a Member which is not a natural person, any officer, director, partner or trust officer of such Member shall be eligible to serve as a director unless otherwise specified by written notice to the Association signed by such Member. No Member may have more than one such representative on the Board at a time, except in the case of directors (a) appointed by the Class "B" Member during the Class "B" Control Period pursuant to Section 3.3, (b) elected by the Class "B" Member after the expiration of the Class "B" Control Period, or (c) elected by the Class "A" votes held by Declarant after the conversion of the Class "B" membership to Class "A" membership pursuant to Section 3.3(b) of the Declaration.

3.2 Number of Directors. The number of Directors in the Association shall not be less than three nor more than seven, as provided in Section 3.5. The initial Board shall consist of three directors as identified in the Articles of Incorporation.

3.3 Directors During Class "B" Control Period. Subject to provisions of Section 3.5, the directors shall be appointed by the Class "B" Member acting in its sole discretion and shall serve at the pleasure of the Class "B" Member until the first to occur of the following:

a. when 75% of the Maximum Units have certificates of occupancy issued thereon and have been conveyed to Retail Owners;

b. Fifteen years from the anniversary date of the conveyance of the first Unit to a Retail Owner after the Commencement of Sales, except as provided for in Section 3.3(b)(ii) of the Declaration or;

c. when, in its discretion, the Class "B" Member so determines.

3.4 Nomination of Directors. Except with respect to directors selected by the Class "B" Member, or the Declarant, as the case may be, pursuant to Section 3.1, nominations for election to the Board shall be made by Nominating Committee. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board, and three or more Members or representatives of Members. The Nominating Committee shall be appointed by the Board not less than 30 days prior to each annual meeting of the Voting Members to serve a term of one year or until their successors are appointed, and such appointment shall be announced at each such annual meeting. The Nominating Committee shall make as many nominations for election to the Board as it shall in its discretion determine, but in no event less than the number of positions to be filled from each slate as provided in Section 3.5. The Nominating Committee shall nominate directors to be elected by the Voting Members. Nominations shall also have a reasonable opportunity to communicate their qualifications to the Voting Members and to solicit votes.

3.5 Election and Terms of Office. Notwithstanding any other provisions of these By-Laws

(a) Within one year after the first Unit is conveyed to a Retail Owner, the President shall call a special meeting to be held at which the Voting Members representing Class "A" Members, other than the Declarant, shall elect one of the three directors. The Remaining two directors shall be appointees of the Class "B" Member. The director elected by the Voting Members shall not be subject to removal by the Class "B" Member and shall be elected for a term of two years or until the happening of the event described in subsection (b) below, whichever is shorter. If such director's term expires prior to the happening of the event described in subsection (b) below, a successor shall be elected for a like term.

(b) Within 30 days after the time that Retail Owners own 50% of the Maximum Units, or whenever the Class "B" Member earlier determines, the Board shall be increased to five directors. The President shall call a special meeting at which Voting Members representing the Class "A" Members, other than the Declarant, shall be entitled to elect two of the five directors, who shall serve as at-large directors. The remaining three directors shall be appointees of the Class "B" Member and shall be elected for a term of two years or until the happening of the event described in subsection (c) below, whichever is shorter. If such directors' terms expire prior to the happening of the event described in subsection (c) below, successors shall be elected for a like term.

(c) Within 120 days after the termination of the Class "B" Control Period, the Board shall be increased to seven directors. The President shall call a meeting at which all directors shall be elected as follows: Subject to subsection (d) below, the directors shall be elected by Voting Members representing Class "A" and Class "B" Members. The majority of the directors shall be elected for a term of two years and the remaining directors shall be elected (or appointed as the case may be pursuant to subsection (d) below) for a term of one year, with each term to expire at the next annual meeting after the two-year or one-year period, as applicable. Successor directors shall be elected (or appointed as the case may be pursuant to subsection (d) below) at annual meetings to serve for two-year terms.

There shall be no cumulative voting. The candidates receiving the most votes shall be elected. For the first election held pursuant to this subsection, of the elected candidates, those receiving the most votes shall serve for two years. The directors elected by the Voting Members shall hold office until their

respective successors have been elected. Directors may be elected to serve any number of consecutive terms.

(d) After the Class "B" Control Period, the Declarant shall have the right to appoint or elect at least 20% of the Board Members as long as the Declarant has the power to annex property pursuant to Article IX of the Declaration.

3.6 Removal of Directors and Vacancies. Any director elected by the Voting Members may be removed, with or without cause, by the vote of Voting Members holding a majority of the votes entitled to be cast for the election of such director. Any director whose removal is sought shall be given notice prior to any meeting called and noticed for that purpose. A director who was elected solely by the votes of Voting Members representing Class "A" Members (other than the Declarant), may be removed from Office prior to the expiration of his or her term only by the votes of Voting Members representing a majority of the Class "A" Members (other than the Declarant). Upon removal of a director, a successor shall be elected by the Voting Members entitled to elect the director so removed to fill the vacancy for the remainder of the term of such director.

Any director elected by the Voting Members who has three consecutive unexcused absences from Board meetings, or who is more than 30 days delinquent in the payment of any assessment or other charge due the Association, may be removed by a majority of the directors present at a regular or special meeting at which a quorum is present, and a successor may be appointed by the Board to fill the vacancy for the remainder of the term.

In the event of the death, disability, or resignation of a director, the Board may declare a vacancy and appoint a successor to fill the vacancy until the next annual meeting, at which time the Voting Members entitled to fill such directorship may elect a successor for the remainder of the term.

## B. Meetings

3.7 Organizational Meetings. The first meeting of the Board following each annual meeting of the membership shall be held within 10 days thereafter at such time, place, and in such manner (e.g., teleconference, video conference, etc.), as the Board shall fix.

3.8 Regular Meetings. Regular meetings of the Board may be held at such time, place, and in such manner (e.g., teleconference, video conference, etc.), as a majority of the directors shall determine, but at least four such meetings shall be held during the fiscal year with at least one per quarter. Notice of the time and place of the meeting shall be posted in a prominent place within the Properties and communicated to directors not less than four days prior to the meeting; provided, however, notice of a meeting need not be given to any director who has signed a waiver of notice or a written consent to holding of the meeting.

3.9 Special Meetings. Special meetings of the Board shall be held when called by written notice signed by the President or by any two directors. The notice shall specify the time and place of the meeting and nature of any special business to be considered. The notice shall be given to each director by: (a) personal delivery; (b) first class mail, postage prepaid; (c) telephone communication, either directly to the director or to a person at the director's office or home who would reasonably be expected to communicate such notice promptly to the director, (d) overnight commercial delivery (e.g., Federal Express), (e) telegram, charges prepaid. All such notices shall be given at the director's telephone number or sent to the director's address as shown on the records of the Association. Notices of special meetings of the Board shall be posted in a prominent place within the Properties. Notices sent by first class mail or overnight delivery service shall be deposited into a United States mailbox (appropriate overnight delivery

service deposit box) at least four business days before the time set for the meeting. Notices given by personal delivery, telephone, or telegraph shall be delivered, telephoned, or given to the telegraph company at least 72 hours before the time set for the meeting.

3.10 Waiver of Notice. The transactions of any meeting of the Board, however called and noticed or wherever held, shall be as valid as though taken at a meeting duly held after regular call and notice if (a) a quorum is present, and (b) either before or after the meeting each of the directors not present signs a written waiver of notice, a consent to holding the meeting, or an approval of the minutes. The waiver of the notice or consent need not specify the purpose of the meeting. Notice of a meeting also shall be deemed given to any director who attends the meeting without protesting before or at its commencement about the lack of adequate notice.

3.11 Quorum of Board of Directors. At all meetings of the Board, a majority of the directors shall constitute a quorum for the transaction of business, and the votes of a majority of the directors present at a meeting at which a quorum is present shall constitute the decision of the Board, unless otherwise specifically provided in these By-Laws or the Declaration. A meeting at which a quorum is initially present may continue to transact business, notwithstanding the withdrawal of directors, if any action taken is approved by at least a majority of the required quorum for the meeting. If any meeting of the Board cannot be held because a quorum is not present, a majority of the directors present at such meeting may adjourn the meeting to a time not less than five nor more than 30 days from the date of the original meeting. At the reconvened meeting, if a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice.

3.12 Compensation. No director shall receive any compensation from the Association for acting as such unless approved by Voting Members representing a majority of the total Class "A" votes in the Association, other than the Declarant, at a regular or special meeting of the Association. Any director may be reimbursed for expenses incurred on behalf of the Association upon approval of a majority of the other directors. Nothing herein shall prohibit the Association from compensating a director, or any entity with which a director is affiliated, for services or supplies furnished to the Association in a capacity other than as a director pursuant to a contract or agreement with the Association, provided that such director's interest was made known to the Board prior to entering into such contract and such contract was approved by a majority of the Board, excluding the interested director.

3.13 Conduct of Meetings. The President shall preside over all meetings of the Board, and the Secretary shall keep a minute book of meetings of the Board, recording all resolutions adopted by the Board and all transactions and proceedings occurring at such meetings. One or more directors may participate in any meeting of the Board, or of a committee of the Board, by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other. Participation in a meeting pursuant to this section shall constitute presence in person at such meeting.

3.14 Open Meetings. Subject to the provisions of Section 3.15, all meetings of the Board shall be open to all Voting Members, but Voting Member other than directors may not participate in any discussion or deliberation unless permission to speak is requested on his or her behalf by a director. In such case, the President may limit the time any Voting Member may speak. Notwithstanding the above, the President may adjourn any meeting of the Board and reconvene in executive session, excluding Voting Members, to discuss matters of a sensitive nature, such as pending or threatened litigation, personnel matters, etc.

3.15 Action Without a Formal Meeting. Any action to be taken at a meeting of the directors or any action that may be taken at a meeting of the directors may be taken without a meeting if a consent in

writing, setting forth the action so taken, shall be signed by all of the directors, and such consent shall have the same force and effect as a unanimous vote. Written consent or consents shall be filed with the minutes of the proceedings of the Board. An explanation of the action to be taken or actually taken by the Board shall be given to the Members of the Association within three days after all written consents have been obtained. The explanation shall be given in the same manner as provided in the By-Laws for the giving notice of regular meetings of the Board. Failure to give notice shall not render the action to be taken or actually taken invalid.

### C. Powers and Duties

3.16 Powers. The Board shall have all of the powers and duties necessary for the administration of the Association's affairs and for performing all responsibilities and exercising all rights of the Association as set forth in the Declaration, these By-Laws, the Articles, and as provided by law. The Board may do or cause to be done all acts and things as are not by the Declaration, Articles, these By-Laws, or Utah law directed to be done and exercised exclusively by the Voting Members or the membership generally.

3.17 Duties. The duties of the Board shall include without limitation:

- (a) preparation and adoption of annual budgets and establishing each Owner's share of the Common Expenses;
- (b) levying and collecting assessments from the Owners to fund the Common Expenses;
- (c) providing for the operation, care, upkeep, and maintenance of the Area of Common Responsibility;
- (d) designating, hiring, and dismissing the personnel necessary to carry out the rights and responsibilities of the Association and where appropriate, providing for compensation of such personnel and for the purchase of equipment, supplies, and materials to be used by such personnel in the performance of their duties;
- (e) depositing all funds received on behalf of the Association in a bank depository which it shall approve, and using such funds to operate the Association; provided, any reserve fund may be deposited, in the director=s best business judgment, in depositories other than banks;
- (f) making and amending rules and regulations;
- (g) opening of bank accounts on behalf of the Association and designating the signatories required;
- (h) making, or contracting for the making of, repairs, additions, and improvements to, or alterations of, the Common Area in accordance with the Declaration and these By-Laws;
- (i) enforcing by legal means the provisions of the Declaration, these By-Laws, and the rules adopted by it and bringing any proceedings which may be instituted on behalf of, or against, the Owners concerning the Association;
- (j) obtaining and carrying property and liability insurance and fidelity bonds, as provided in the Declaration, paying the cost thereof, and filing and adjusting claims, as appropriate;

(k) paying the cost of all service rendered to the Association or its Members and not chargeable directly to specific Owners;

(l) keeping books with detailed accounts of the receipt and expenditures of the Association;

(m) making available to any prospective purchaser of a Unit, any Owner, and the holders, insurers, and guarantors of any Mortgage on any Unit, current copies of the Declaration, the Articles of Incorporation, the By-Laws, rules and all other books, record, and financial statements of the Association;

(n) permitting utility supplies to use portions of the Common Area reasonably necessary to the ongoing development or operation of the Properties;

(o) indemnifying a director, officer or committee member, or former director, officer or committee member of the Association to the extent such indemnity is required by Utah law, the Articles of Incorporation and the Declaration; and

(p) assisting in the resolution of disputes between Owners and others without litigation, as set forth in the Declaration.

3.18 Right of Class "B" Member to Disapprove Actions. Until 75% of the Maximum Units are owned by Retail Owners, the Declarant shall have a right to disapprove any action, policy or program of the Association, the Board and any committee which, in the judgment of the Declarant, would tend to impair rights of the Declarant or Builders under the Declaration or these By-Laws, or interfere with development, construction of any portion of the Properties, or diminish the level of services being provided by the Association.

No such action, policy or program shall become effective or be implemented until and unless:

(a) The Declarant shall have been given written notice of all meetings and proposed actions approved at meetings of the Association, the Board or any committee thereof by certified mail, return receipt requested, or by personal delivery at the address it has registered with the Secretary of the Association, as it may change from time to time, which notice complies as to the Board meetings with Section 3.8, 3.9 and 3.10 of these By-Laws and which notice shall, except in the case of the regular meetings held pursuant to the By-Laws, set forth in reasonable particularity the agenda to be followed at said meeting; and

(b) The Declarant shall be given the opportunity at any such meeting to join in or to have its representatives or agents join in discussion from the floor of any prospective action, policy, or program which would be subject to the right of disapproval set forth herein. The Declarant, its representatives or agents shall make its concerns, thoughts, and suggestions known to the Board and/or the members of the subject committee. The Declarant shall have and is hereby granted a right to disapprove any such action, policy, or program authorized by the Association, the Board or any committee thereof, if Board, committee, or Association approval is necessary for such action. The right may be exercised by the Declarant, its successors, assigns, representatives, or agents at any time within 10 days following the meeting held pursuant to the terms and provisions hereof. This right to disapprove may be used to block proposed actions but shall not extend to the requiring of any action or counteraction on behalf of any committee, or the Board or the Association. The Declarant shall not use its right to disapprove to reduce the level of services which the Association is obligated to provide or to prevent capital repairs or any expenditures required to comply with applicable laws and regulations.

(c) This section may not be amended without the express written consent of the Declarant until 75% of the Maximum Units have been conveyed to Retail Owners.

3.19 Management. The Board may employ for the Association a professional management agent or agents at such compensation as the Board may establish, to perform such duties and services as the Board shall authorize. The Board may delegate such powers as are necessary to perform the manager's assigned duties, but shall not delegate policy making authority or those duties set forth in Sections 3.17(a) and 3.17(i). The Declarant, or an affiliate of the Declarant, may be employed as managing agent or manager.

The Board may delegate to one of its members the authority to act on behalf of the Board on all matters relating to the Duties of the managing agent or manager, if any, which might arise between meetings of the Board.

The Association shall not be bound, either directly or indirectly, by any management contract executed during the Class "B" Control Period unless such contract contains a right of termination exercisable by the Association, with or without cause and without penalty, at any time after termination of the Class "B" Control Period upon not more than 30 days written notice.

3.20 Accounts and Reports. The following management standards of performance shall be followed unless the Board by resolution specifically determines otherwise:

(a) accrual accounting, as defined by generally accepted accounting principles, shall be employed;

(b) accounting and controls should conform to generally accepted accounting principles;

(c) cash accounts of the Association shall not be commingled with any other accounts;

(d) no remuneration shall be accepted by the managing agent from vendors, independent contractors, or others providing goods or services to the Association, whether in the form of commissions, finder's fees, service fees, prizes, gifts, or otherwise; anything of value received shall benefit the Association;

(e) any financial or other interest which the managing agent may have in any firm providing goods or services to the Association shall be disclosed promptly to the Board;

(f) the following financial and related information shall be regularly prepared and distributed by the Board to all the Members of the Association:

(i) The Board shall cause a "Capital Budget" and a "Common Expense Budget" (collectively referred to as the "Budget") for the Association, to be prepared for each fiscal year of the Association, a copy of which shall be distributed to each Member of the Association not less than 45 nor more than 60 days before the beginning of the fiscal year to which the Budget relates. A copy of the Budget shall be distributed personally or by mail or other manner reasonably designed to provide delivery to each of the Members of the Association. The Budget shall include the following information:

(A) the estimated revenue and expenses of the Association on an accrual basis for the forthcoming fiscal year;

(B) the amount of the total cash reserves of the Association currently available for the replacement or major repair of the Area of Common Responsibility and for contingencies;

(C) an estimate of the current replacement costs of the estimated remaining useful life of, and the methods of funding to defray future repair, replacements or additions to, those major components of the Area of Common Responsibility; and

(D) a general statement setting forth the procedures used by the Board in the calculation and establishment of reserves to defray the future repair, replacement or additions to major components of the Area of Common Responsibility.

(E) a disclosure statement that the Declarant or a Builder is contributing "in kind" services or material pursuant to a contract with the Association, if any, and that their assessment obligation may be reduced or abated by the amount of the agreed value of such services of materials; and

(F) a disclosure statement that a subsidy contract exists between the Declarant and the Association, if that is the case.

The Budget shall become effective unless disapproved at a meeting of the Voting Members representing at least a majority of the Members of the Association. There shall be no obligation to call a meeting for the purpose of considering the Budget except on petition of the Voting Members as provided for special meetings in Section 2.4 of the By-Laws, which petition must be presented to the Board within 10 days of delivery of the notice of assessments. In the event the proposed budget is disapproved or the Board fails for any reason to determine the Budget for any year, then and until such time as a Budget shall have been determined as provided herein, the Budget in effect for the immediately preceding year shall continue for the current year.

In lieu of distributing the Budget as specified in the above paragraphs of this Section 3.20, the Board may elect to distribute a summary of the Budget ("Summary") to all its Members with a written notice that the Budget is available at the business office of the Association or at another suitable location within the boundaries of the Properties and that copies will be provided upon request at the expense of the Association. If any Member requests a copy of the Budget, the Association shall provide such copy to the Member by first-class United States mail and deliver such copy within five days of such request. The written notice that is distributed to each of the Members shall be in at least 10 point bold type on the front page of the Summary.

In the event the Board elects to distribute the Budget, upon request for the Association's most recent Budget by any Member, the Association shall, within 10 days of the mailing or delivery of the request, provide to any Member of the Association a copy of the Budget. The Association may charge a fee for this service, which shall not exceed the reasonable cost to prepare and reproduce the Budget.

(ii) The Board shall cause an annual report ("Financial Statement") to be prepared in accordance with generally accepted accounting principles to be distributed to each Member of the Association within 120 days after close of the Association's fiscal year. A copy of the Financial Statement shall be distributed personally or by mail or other manner reasonably designed to provide delivery to each of the Members of the Association, and shall consist of:

(A) a balance sheet as of the end of the fiscal year;

(B) an income and expense statement for the fiscal year (This operating Statement shall include a schedule of assessments received and receivables identified by the numbers of the Units and the names of the Owners assessed.); and

(C) a statement of changes in financial position for the fiscal year.

The Financial Statement shall be prepared by an independent accountant for any fiscal year in which the gross income to the Association exceeds \$100,000.00. If the Financial Statement is not prepared by an independent accountant, it shall be accompanied by the certificate of an authorized officer of the Association that the statements were prepared without independent audit or review of the books and records of the Association.

(iii) The Board shall do the following not less frequently than quarterly:

(A) cause a current reconciliation of the Association's operating accounts to be made and review the same;

(B) cause a current reconciliation of the Association's reserve accounts to be made and review the same;

(C) review the current year's actual reserve revenues and expenses compared to the current year's Budget;

(D) review the most current account statements prepared by the financial institution where the Association has its operating and reserve accounts;

(E) review an income and expense Statement for the Association's operating and reserve accounts; and

(F) review the delinquency report listing all Owners who are delinquent in paying any assessments at the time of the report and describing the status of any action to collect such assessments which remain delinquent. (Any assessment or installment thereof shall be considered to be delinquent on the 15<sup>th</sup> day following the due date unless otherwise determined by the Board.)

(iv) A statement of the Association's policies and practices in enforcing its remedies against Members for default in the payment of assessments, including the recording and foreclosing of liens against Units, to be distributed to Members of the Association within 60 days before the beginning of each fiscal year.

3.21 Borrowing. The Association shall have the power to borrow money for the purpose of maintenance, repair or restoration of the Area of Common Responsibility without the approval of the Voting Members. The Board shall also have the power to borrow money for other purposes; provided, that the proposed borrowing is for the purpose of modifying, improving or adding amenities to the Area of Common Responsibility. Such borrowing shall be in accordance with Section 3.24(a). During the Class "B" Control Period, no Mortgage lien shall be placed on any portion of the Common Area without the affirmative vote or written consent of Voting Members representing at least a majority of the Members other than the Declarant.

3.22 Rights of the Association. The Association shall have the right to contract with any Person for the performance of various duties and functions. This right shall include, without limitations, the right to enter into common management, operational, or other agreements with trusts, condominiums,

cooperatives, other owners or residents associations, both within and outside the Properties. Such agreements shall require the consent of a majority of the total number of directors of the Association.

3.23 Enforcement. In addition to such other rights as are specifically granted under the Declaration, the Board shall have the power to impose reasonable fines. A fine, other than a penalty for nonpayment of assessments, shall not constitute a lien upon the Unit of the Violating Owner. The Board shall also have the power to suspend an Owner's right to vote or any person's right to use the Common Area for violation of any duty imposed under the Declaration, these By-Laws, or any rules and regulations duly adopted hereunder; provided, however, nothing herein shall authorize the Board to limit ingress and egress to or from a Unit or to suspend an Owner's right to vote due to nonpayment of assessments. In addition, the Board may suspend any service provided by the Association to an Owner or the Owner's Unit if the Owner is more than 30 days delinquent in paying any assessment or other charges owed to the Association. In the event that any occupant, guest or invitee of a Unit violates the Declaration, By-Laws, or a rule and a fine is imposed, the fine shall first be assessed against the occupant; provided, however, if the fine is not paid by the occupant within the time period set by the Board, the Owner shall pay the fine upon notice from the Association. The failure of the Board to enforce any provision of the Declaration, By-Laws, or any rule shall not be deemed a waiver of the rights of the Board to do so thereafter.

(a) Notice. Prior to imposition of any sanction hereunder or under the Declaration, the Board or its delegates shall serve the alleged violator with written notice describing (i) the nature of the alleged violation, (ii) the proposed sanction to be imposed, (iii) a period of not less than 15 days within which the alleged violator may present a written request for a hearing to the Board or the Covenants Committee, if any, appointed pursuant to Article V; and (iv) a statement that the proposed sanction shall be imposed as contained in the notice unless a challenge is begun within 15 days of the notice. If a timely challenge is not made, the sanction stated in the notice shall be imposed; provided the Board or the Covenants Committee may, but shall not be obligated to, suspend any proposed sanction if the violation is cured within the 15 day period. Such suspension shall not constitute a waiver of the right to sanction future violations of the same or other provisions and rules by any Person.

(b) Hearing. If a hearing is requested within the allotted 15 day period, the hearing shall be held before the Covenants Committee, if any, or if none, before the Board in executive session. The alleged violator shall be afforded a reasonable opportunity to be heard. Prior to the effectiveness of any sanction hereunder, proof of proper notice shall be placed in the minutes of the meeting. Such proof shall be deemed adequate, if a copy of the notice, together with a statement of the date and manner of delivery, is entered by the officer, director, or agent who delivered such notice. The notice requirement shall be deemed satisfied if the alleged violator appears at the meeting. The minutes of the meeting shall contain a written statement of the results of the hearing and the sanction, if any, imposed.

(c) Appeal. Following a hearing before the Covenants Committee, the violator shall have the right to appeal the decision to the Board. To perfect this right, a written notice of appeal must be received by the manager, President, or Secretary of the Association within 10 days after the hearing date.

(d) Additional Enforcement Rights. Notwithstanding anything to the contrary in this Article, the Board may elect to enforce any provision of the Declaration, these By-Laws, or the rules of the Association by self-help (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules and regulations; however, only in accordance with any applicable ordinances of the County of Wasatch, if applicable) or, following compliance with the procedures set forth in Article XVI of the Declaration, by suit at law or in equity to enjoin any violation to recover monetary damages or both without the necessity of compliance with the procedure set forth above. In any such action, to the maximum extent permissible, the Owner or occupant responsible for the violation of which abatement is sought shall pay all costs, including reasonable attorney's fees actually incurred.

3.24 Prohibited Acts. The Board shall not take any of the following actions except with the written consent or vote of the Voting Members representing at least a majority of the Members other than the Declarant:

(a) to incur aggregate expenditures for capital improvements to the Area of Common Responsibility in any fiscal year in excess of 5% of the budgeted Common Expenses of the Association for that fiscal year;

(b) to sell during any fiscal year property of the Association having an aggregate fair market value greater than 5% of the budgeted Common Expenses of the Association for that fiscal year;

(c) to pay compensation to directors or officers of the Association for service performed in the conduct of the Association's business; provided, however, the Board may cause a director or officer to be reimbursed for expenses incurred in carrying on the business of the Association;

(d) to enter into a contract with a third Person wherein the third Person will furnish goods or services for a term longer than one year with the following exceptions:

(i) a management contract, the terms of which have been approved by the U.S. Department of Veterans Affairs ("VA") or the U.S. Department of Housing and Urban Development ("HUD") if either agency is guaranteeing or insuring a Mortgage in the Properties;

(ii) a contract with a public utility company, if the rates charged for the materials or services are regulated by the Public Utilities Commission; provided, however, the terms of the contract shall not exceed the shortest term for which a supplier will contract at the regulated rate;

(iii) prepaid casualty and/or liability insurance policies not to exceed three years duration, provided that the policy permits short rate cancellation by the insured;

(iv) lease agreements for laundry room fixtures and equipment of a duration not to exceed five years;

(v) agreements for cable television services and equipment or satellite television services and equipment not to exceed five years duration;

(vi) agreements for sale or lease of burglar alarm and fire alarm equipment, installation and services thereof, not to exceed five years duration.

(e) no contract with the Association negotiated by Declarant shall exceed a term of one year except as may otherwise be provided in paragraph (d) of this section.

#### ARTICLE IV

##### Officers

4.1 Officers. The officers of the Association shall be a President, Vice President, Secretary, and Treasurer. The President, Vice President, Secretary and Treasurer shall be elected from among the members of the Board. The Board may appoint such other officers, including one or more Assistant Secretaries and one or more Assistant Treasurers, as it shall deem desirable, such officers to have the

authority and perform the duties prescribed by the Board. Any two or more offices may be held by the same person, except the offices of President and Secretary.

4.2 Election and Term of Office. The officers of the Association shall be elected annually by the Board at the first meeting of the Board following each annual meeting of the membership, as set forth in Article III.

4.3 Removal and Vacancies. Any officer may be removed by the Board whenever in its judgment the best interests of the Association will be served thereby. A vacancy in any office arising because of death, resignation, removal, or otherwise may be filled by the Board for the unexpired portion of the term.

4.4 Powers and Duties. The officers of the Association shall each have such powers and duties as generally pertain to their respective offices, as well as such powers and duties as may specifically be conferred or imposed by the Board. The President shall be the chief executive officer of the Association. The Treasurer shall have primary responsibility for the preparation of the budget as provided for in the Declaration and may delegate all or part of the preparation and notification duties to a finance committee, management agent, or both.

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

4.6 Agreements, Contracts, Deeds, Leases, Checks, Etc. All agreements, contracts, deeds, leases, checks, and other instruments of the Association (other than for the withdrawal of reserve funds) shall be executed by at least two officers or by such other person or persons as may be designated by resolution of the Board. The Board shall require signatures for the withdrawal of reserve funds of either two members of the Board or a member of the Board and officer of the Association who is not also a member of the Board. For purposes of this section, "reserve funds" means monies the Board has identified in the Budget to defray the future repair or replacement of, or additions to, those major items which the Association is obligated to maintain.

4.7 Compensation. Compensation of officers shall be subject to the same limitations as compensation of directors under Section 3.12 hereof.

## ARTICLE V

### Committees

5.1 General. The Board may appoint such committees as it deems appropriate to perform such tasks and to serve for such periods as the Board may designate by resolution. Each committee shall operate in accordance with the terms of such resolution.

5.2 Covenants Committee. In addition to any other committees which the Board may establish pursuant to Section 5.1, the Board may appoint a Covenants Committee consisting of at least three and no more than seven Members. Acting in accordance with the provisions of the Declaration, these By-Laws, and resolutions the Board may adopt, the Covenants Committee, if established, shall be the hearing tribunal of the Association and shall conduct all hearings held pursuant to Section 3.23 of these By-Laws.

5.3 Transitional Advisory Committee. In addition to any other committees appointed as provided above, the Board shall establish a Transitional Advisory Committee when more than 50% of the Maximum Units are owned by Retail Owners and Class "B" membership has not yet terminated.

## ARTICLE VI

### Miscellaneous

6.1 Fiscal Year. The fiscal year of the Association shall be set by resolution of the Board. In the absence of a resolution, the fiscal year shall be the calendar year.

6.2 Parliamentary Rules. Except as may be modified by Board resolution, Robert's Rules of Order (current edition) shall govern the conduct of Association proceedings when not in conflict with Utah laws, the Articles of Incorporation, the Declaration, or these By-Laws.

6.3 Conflicts. If there are conflicts between the provisions of Utah law, the Articles of Incorporation, the Declaration, and these By-Laws, the provisions of Utah law, the Declaration, the Articles of Incorporation, and the By-Laws (in that order) shall prevail.

### 6.4 Books and Records.

(a) Inspection by Members and Mortgagees. The Board shall make available for inspection and copying by any holder, insurer or guarantor of a first Mortgage on a Unit, any Member, or the duly appointed representative of any of the foregoing at any reasonable time and for a purpose reasonably related to his or her interest in a Unit: the Declaration, By-Laws, and Articles of Incorporation, any amendments to the foregoing, the rules of the Association, the membership register, the most recent Financial Statement, the current Budget, books of account, and the minutes of meetings of the Members, the Board, and committees. The Board shall provide inspections to take place at the office of the Association or at such other place within the Properties as the Board shall designate.

(b) Rules for Inspection. The Board shall establish reasonable rules with respect to:

- (i) notice to be given to the custodian of the records;
- (ii) hours and days of the week when such an inspection may be made; and
- (iii) payment of the cost of reproducing copies of documents requested.

(c) Inspection by Directors. Every director shall have the absolute right at any reasonable time to inspect all books, records, and documents of the Association and the physical properties owned or controlled by the Association. The right of inspection by a director includes the right to make copy of relevant documents at the expense of the Association.

6.5 Notices. Unless otherwise provided in these By-Laws, all notices, demands, bills, statements, or other communications under these By-Laws shall be in writing and shall be deemed to have been duly given if delivered personally, sent by United States mail, first class postage prepaid, or other commercially recognized courier service (e.g., Federal Express);

(a) if to a Member or Voting Member, at the address which the Member or Voting Member has designated in writing and filed with the Secretary or, if no such address has been designated, at the address of the Unit of such Member or Voting Member; or

(b) if the Association, the Board or managing agent, at the principal office of the Association or managing agent, if any, or at such other address as shall be designated by notice in writing to the Members pursuant to this section.

6.6 Amendment.

(a) By Declarant Member. Prior to the conveyance of the first Unit to a Retail Owner and prior to Commencement of Sales, the Declarant may unilaterally amend these By-Laws. After the conveyance of any Unit, the Declarant may unilaterally amend these By-Laws at any time if such amendment is;

(i) necessary to bring any provision hereof into compliance with any applicable governmental statutes, rule or regulation, or judicial determination;

(ii) necessary to enable any reputable title insurance company to issue title insurance coverage on the Units;

(iii) required by an institutional or governmental lender or purchaser of mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to enable such lender or purchaser to make or purchase mortgage loans on the Units;

(iv) otherwise necessary to enable any governmental agency or reputable private insurance company to insure the title to any Unit unless the affected Owner shall consent thereto in writing.

(b) By Members Generally. Except as provided above, these By-Laws may be amended only by the affirmative vote or written consent, or any combination thereof, of Voting Members representing 51% of each class of Members. After conversion of the Class "B" membership to Class "A" membership, these By-Laws may be amended by the vote or written consent of the Voting Members representing at least: (a) 75% of the Members; and (b) 75% of the Members other than Declarant.

In addition, the approval requirements set forth Article XIV of the Declaration shall be met, if applicable. Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for such action to be taken under that clause.

(c) Validity and Effective Date of Amendments. Amendments to these By-Laws shall become effective upon recordation in the Office of the County Recorder unless a later effective date is specified therein. Any procedural challenge to an amendment must be made within six months of its recordation or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of these By-Laws.

If an Owner consents to any amendment to the Declaration or these By-Laws, it will be conclusively presumed that such Owner has the Authority so to consent and no contrary provision in any Mortgage or contract between the Owner and a third party will affect the validity of such amendment.

No amendment may remove, revoke, or modify any right or privilege of Declarant without the written consent of Declarant or the assignee of such right or privilege.

EXHIBIT "D"  
Rules of Arbitration

1. Claimant shall submit a Claim to arbitration under these Rules by giving written notice to all other Parties stating plainly and concisely the nature of the Claim, the remedy sought and Claimant's desire to submit the Claim to arbitration ("Arbitration Notice").

2. Each Party shall select an arbitrator ("Party Appointed Arbitrator"). The Party Appointed Arbitrators shall, by agreement, select one or two neutral arbitrators ("Neutral(s)") so that the total arbitration panel ("Panel") has an odd number of arbitrators. If any Party fails to appoint a Party Appointed Arbitrator within 20 days from the date of the Arbitration Notice, the remaining arbitrators shall conduct the proceedings, selecting a Neutral in place of any missing Party Appointed Arbitrator. The Neutral arbitrator(s) shall select a chairperson ("Chair").

3. If the Panel is not selected under Rule 2 within 45 days from the date of the Arbitration Notice, Claimant may notify the Utah chapter of The Community Association Institute, which shall appoint one Neutral ("Appointed Neutral"), notifying the Appointed Neutral and all Parties in writing of such appointment. The Appointed Neutral shall thereafter be the sole arbitrator ("Arbitrator"), and any Party Appointed Arbitrators or their designees shall have no further duties involving the arbitration proceedings.

4. No person may serve as a Neutral in any arbitration under these Rules in which that person has any financial or personal interest in the result of the arbitration. Any person designated as a Neutral shall immediately disclose in writing to all Parties any circumstances likely to affect impartiality, including any bias or financial or personal interest in the outcome of the arbitration ("Bias Disclosure"). If any Party objects to the service of any Neutral after receipt of that Neutral's Bias Disclosure, such Neutral shall be replaced in the same manner in which that Neutral was selected.

5. The Arbitrator or Chair, as the case may be, ("Arbitrator") shall fix the date, time, and place for the hearing. The place of the hearing shall be within the Properties unless otherwise agreed by the Parties.

6. Any Party may be represented by an attorney or other authorized representative throughout the arbitration proceedings.

7. All persons who, in the judgment of the Arbitrator, have a direct interest in the arbitration are entitled to attend hearings.

8. There shall be no stenographic record of the proceedings.

9. The hearing shall be conducted in whatever manner will, in the Arbitrator's judgment, most fairly and expeditiously permit the full presentation of the evidence and arguments of the Parties.

10. The Parties may offer such evidence and material as is relevant to the Claim, and shall produce such additional evidence as the Arbitrator may deem necessary to reach an understanding

and determination of the Claim. The Arbitrator shall be the sole judge of the relevance and materiality of any evidence offered, and conformity to the legal rules of evidence shall not be necessary. The Arbitrator shall be authorized, but not required, to administer oaths to witnesses.

11. The Arbitrator shall declare the hearings closed when satisfied the record is complete.

12. There will be no post hearing briefs.

13. The Award shall be rendered immediately following the close of the hearing, if possible, and no later than 14 days from the close of the hearing, unless otherwise agreed by the Parties. The Award shall be in writing, shall be signed by the Arbitrator and acknowledged before a notary public. If the Arbitrator believes an opinion is necessary, it shall be in summary form.

14. If there is more than one arbitrator, all decisions of the Panel and the Award shall be by majority vote.

15. Each Party agrees to accept as legal delivery of the Award the deposit of a true copy in the mail addressed to that Party or its attorney at the address communicated to the Arbitrator at the hearing.

After Recording Return To:  
**Hideout Canyon Homeowners Association**  
P.O. Box 2080  
Park City, Utah 84060

Ent 330380 Bk 957 Pg 1415-1420  
Date: 04-JAN-2008 11:20AM  
Fee: \$80.00 Check Filed By: JP  
ELIZABETH PALMIER, Recorder  
WASATCH COUNTY CORPORATION  
For: MUSTANG DEVELOPMENT

**FIRST AMENDMENT TO  
THE BY-LAWS  
FOR HIDEOUT CANYON**

**This Amendment to the Declaration of Covenants, Conditions and Restrictions of HIDEOUT CANYON (the "Declaration") that established the Hideout Canyon Association (the "Association") is made on the date evidenced below by the Mustang Development, LLC, a Utah limited liability company ("Declarant").**

**RECITALS**

A. Certain real property in Wasatch County, Utah, known as Hideout Canyon were subjected to certain covenants, conditions, and restrictions pursuant to a Declaration dated October 6, 2005 and recorded as Entry No. 290025, in Book 792 at Page 493 in the Recorder's Office for Wasatch County, Utah;

B. This amendment shall be binding against all of the property described in the Declaration and any annexation, expansion or supplement thereto. Namely, all of Hideout Canyon, more particularly described in the attached Exhibits "A" and "B."

C. This Amendment has been consented to and approved by the affirmative vote or written consent, or any combination thereof, of Voting Members representing seventy-five percent (75%) of each class of Members, said consents are on record with the Association.

D. Pursuant to Article VI, Section 6.6 of the By-Laws, the necessary approvals to amend the Declaration were duly received to adopt and record this Amendment.

The Association, by and through its Board of Directors, hereby proposes the amendment of Article III, Section 3.5 of the Association's By-Laws as follows:

3.5 Election and Terms of Office.

Subsections 3.5(a) and 3.5(b) shall be deleted in their entirety. The originally numbered subsections 3.5(c) and 3.5(d) shall hereafter be numbered as subsections 3.5(a) and 3.5(b).

All other provisions in Article III shall remain in full force and effect.

IN WITNESS WHEREOF, HIDEOUT CANYON HOME OWNERS ASSOCIATION has executed this Amendment to the Declaration as of the 17 day of December, 2007, in accordance with Article VI, Section 6.6 of the By-Laws.

**HIDEOUT CANYON HOME OWNERS ASSOCIATION**

  
\_\_\_\_\_  
President

STATE OF UTAH    )  
                          :SS  
County of Wasatch    )

On the 17<sup>TH</sup> day of December, 2007, personally appeared Robert J. Martino who, being first duly sworn, did that say that he is the President of the Association and that the foregoing instrument was signed on behalf of said Association by authority of its Board of Directors; and acknowledged said instrument to be a voluntary act and deed.

  
\_\_\_\_\_  
Notary Public

  
\_\_\_\_\_  
Secretary



STATE OF Ohio                    )  
  :SS  
County of Cuyahoga            )

On the 14 day of December, 2007, personally appeared Anthony J. Martino who, being first duly sworn, did that say that he is the Secretary of the Association and that the foregoing instrument was signed on behalf of said Association by authority of its Board of Directors; and acknowledged said instrument to be a voluntary act and deed.

  
\_\_\_\_\_  
Notary Public



**STEPHANIE EVERETT**  
Notary Public, State of Ohio  
My Commission Expires  
July 24, 2010

**EXHIBIT A  
LEGAL DESCRIPTION**

All of Lots 1 through 30, inclusive, all of Lots T-1 through T-8, inclusive, and all "Common Area" and "Limited Common Area", inclusive, Hideout Canyon - Phase 1 - First Residential Plat, according to the official plat thereof, recorded June 27, 2005, as Entry No. 284926 in Book 764 at Page No. 424 of the official records, in the Office of the Wasatch County Recorder, State of Utah.

OHK-1001 through OHK-1030 and

Wasatch County Tax Serial Nos.:

OHK-10T1 through OHK-10T8.

All of Lots 31, 32, 33, 34 and 35, and all "Common Area" and "Limited Common Area", inclusive, Hideout Canyon Phase 1 - Pod 4 Residential Plat, according to the official plat thereof, recorded September 12, 2005, as Entry No. 288568 in Book 785 at Page No. 197 of the official records, in the Office of the Wasatch County Recorder, State of Utah.

Wasatch County Tax Serial Nos:-OHK-1031, OHK-1032, OHK-1033, OHK-1034 and OHK-1035.

All of Lots C1, C2, C3, C4 and C5, Hideout Canyon Commercial Phase, according to the official plat thereof, recorded May 27, 2005, as Entry No. 283647 in Book 757 at Page No. 509 of the official records, in title Office of the Wasatch County Recorder, State of Utah.

Wasatch County Tax Serial Nos.: OHK-00C1, OHK.-00C2, OHK-00C3, OHK-00C4 and OHK-00C5.

**EXHIBIT "B"**

All of the following described property, or any division of, or new mapping thereof:

The following described real property located in Wasatch County, State of Utah, together with all rights appurtenant thereto:

Tract No. 1:

Those portions of Government lots 5 and 6; the West one-half of the Southeast quarter; and the East one-half of the Southwest quarter of Section 17, Township 2 South, Range 5 East, Salt Lake Base and Meridian; lying Southerly and Westerly of the Southwesterly right of way line of the New State Highway 189, as set forth on the Right of Way Plans of the Utah Department of Transportation, Project No. NF61(3).

EXCEPTING THEREFROM the following described Parcel:

A Parcel of land in said East one-half of the Southwest quarter and the Southwest quarter of the Southeast quarter of Section 17, more particularly described as follows:

Point of beginning lies South 88 degrees 32 minutes 14 seconds West 2400.00 feet along Section line from the Northeast corner of Section 20, Township 2 South, Range 5 East, said point has U.S.C. and G.S. plane grid coordinates North 839,790.42 feet and East 2,026,661.29 feet; thence South 88 degrees 32 minutes 14 seconds West 1589.7 feet along said Section line; thence North 00 degrees 28 minutes 53 seconds East 2666.2 feet along the West line of said East half of the Southwest quarter of Section 17; thence North 89 degrees 17 minutes 52 seconds East 500.00 feet along the North property line; thence South 22 degrees 04 minutes 00 seconds East 2839.7 feet to the point of beginning.

Tract No. 2:

Those portions of the Northeast quarter of Section 20, Township 2 South, Range 5 East, Salt Lake Base and Meridian lying Southerly and Westerly of the Southwesterly right of way line of the New State Highway 189, as set forth on the Right of Way Plans of the Utah Department of Transportation, Project No. NF-61(3).

**EXHIBIT B CONTINUED**

EXCEPTING THEREFROM the following described Parcel:

A Parcel of land in said West one-half of the Northeast quarter of Section 20, more particularly described as follows:

Point of beginning lies South 88 degrees 32 minutes 14 seconds West 2400.00 feet along the Section line from the Northeast corner of Section 20, Township 2 South, Range 5 East, said point has U.S.C. and G.S. plane grid coordinates North 839,790.42 feet and East 2,026,661.29 feet; thence South 22 degrees 04 minutes 00 seconds East 2813.20 feet; thence South 88 degrees 45 minutes 02 seconds West 1290.20 feet along the South line of the Northeast quarter of said Section 20; thence North 00 degrees 44 minutes 35' seconds West 2628.70 feet along the West line of the Northeast quarter of Section 20; thence North 88 degrees 32 minutes 14 seconds East 267.20 feet along said Section line to the point of beginning.

Tract No. 3:

Those portions of Government lot 2 and the Southeast quarter of the Northwest quarter of Section 21, Township 2 South, Range 5 East, Salt Lake Base and Meridian, lying Southerly and Westerly of the Southwesterly right of way line of the New State Highway 189, as set forth on the Right of Way Plans of the Utah Department of Transportation, Project No. NF-61(3).

EXCEPTING THEREFROM any portions lying within I.X.L. No. 3 Patented Lode Mining Claim

M.S. 5554.

LESS AND EXCLUDING FROM ALL OF THE ABOVE:

All of Lots 1 through 30, inclusive, all of Lots T-1 through T-8 inclusive, and all "Common Area" and "Limited Common Area", inclusive, Hideout Canyon - Phase 1 - First Residential Plat, according to the official plat thereof, recorded June 27, 2005, as Entry No. 284926 in Book 764 at Page No. 424 of the official records, in the Office of the Wasatch County Recorder, State of Utah.

All of Lots 31, 32, 33, 34 and 35 and all "Common Area" and "Limited Common Area," inclusive, Hideout Canyon Phase 1 - Pod 4 Residential Plat, according to the official plat thereof, recorded September 12, 2005, as Entry No. 288568 in Book 785 at Page No. 197 of the official records, in the Office of the Wasatch County Recorder, State of Utah.

All of Lots C1, C2, C3, C4 and C5, Hideout Canyon Commercial Phase, according to the official plat thereof, recorded May 27, 2005, as Entry No. 283647 in Book 757 at Page No. 509 of the official records, in the Office of the Wasatch County Recorder, State of Utah.

(2) Any real property now owned or hereafter acquired by Declarant within one (1) mile of the perimeter boundary of the above described property. Such property, if not now owned, must be acquired within ten (10) years of the date of recording of these restrictions.

After Recording Return To:  
**Hideout Canyon Homeowners Association**  
P.O. Box 2080  
Park City, Utah 84060

Ent 330381 Bk 957 Pg 1421-1426  
Date: 04-JAN-2008 11:22AM  
Fee: \$80.00 Check Filed By: JP  
ELIZABETH PALMIER, Recorder  
WASATCH COUNTY CORPORATION  
For: MUSTANG DEVELOPMENT

**SECOND AMENDMENT TO  
THE BY-LAWS  
FOR HIDEOUT CANYON**

**This Amendment to the Declaration of Covenants, Conditions and Restrictions of HIDEOUT CANYON (the "Declaration") that established the Hideout Canyon Association (the "Association") is made on the date evidenced below by the Mustang Development, LLC, a Utah limited liability company ("Declarant").**

**RECITALS**

A. Certain real property in Wasatch County, Utah, known as Hideout Canyon were subjected to certain covenants, conditions, and restrictions pursuant to a Declaration dated October 6, 2005 and recorded as Entry No. 290025, in Book 792 at Page 493 in the Recorder's Office for Wasatch County, Utah;

B. This amendment shall be binding against all of the property described in the Declaration and any annexation, expansion or supplement thereto. Namely, all of Hideout Canyon, more particularly described in the attached Exhibits "A" and "B."

C. This Amendment has been consented to and approved by the affirmative vote or written consent, or any combination thereof, of Voting Members representing seventy-five percent (~~75%~~) of each class of Members, said consents are on record with the Association.

D. Pursuant to Article VI, Section 6.6 of the Declaration, the necessary approvals to amend the Declaration were duly received to adopt and record this Amendment.

E. This Amendment eliminates the requirement that the By-Laws be amended only by the affirmative vote or written consent, or any combination thereof, of Voting Members representing 51% of each class of Members. This Amendment bundles all owners, including the Declarant's voting rights, ~~into~~ the same category. In short, this Amendment requires that 51% of all outstanding votes, including those of the Declarant, are necessary to make amendments to the By-Laws.

The Association, by and through its Board of Directors, hereby proposes the amendment of Article VI, Section 6.6(b) of the Association's By-Laws as follows:

6.6(b) By Members Generally.

Except as provided above, these By-Laws may be amended only by the affirmative vote or written consent, or any combination thereof, of Voting Members representing 51% of all Voting Members. In addition, the approval requirements set forth in Article XIV of the Declaration shall be met, if applicable. Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for such action to be taken under that clause.

IN WITNESS WHEREOF, HIDEOUT CANYON HOME OWNERS ASSOCIATION has executed this Amendment to the Declaration as of the 17 day of December, 2007, in accordance with Article VI, Section 6.6 of the By-Laws.

**HIDEOUT CANYON HOME OWNERS ASSOCIATION**

  
\_\_\_\_\_  
President

STATE OF UTAH    )  
                              : ss  
County of Wasatch    )

On the 17<sup>TH</sup> day of December, 2007, personally appeared Robert J. Martino who, being first duly sworn, did that say that he is the President of the Association and that the foregoing instrument was signed on behalf of said Association by authority of its Board of Directors; and he acknowledged said instrument to be his voluntary act and deed.

  
\_\_\_\_\_  
Notary Public

  
\_\_\_\_\_  
Secretary

STATE OF Ohio                                    )  
  : ss  
County of Cuyahoga                            )



On the 14 day of December, 2007, personally appeared Anthony J. Martino who, being first duly sworn, did that say that he is the Secretary of the Association and that the foregoing instrument was signed on behalf of said Association by authority of its Board of Directors; and acknowledged said instrument to be a voluntary act and deed.

  
\_\_\_\_\_  
Notary Public



STEPHANIE EVERETT  
Notary Public, State of Ohio  
My Commission Expires  
July 24, 2010

**EXHIBIT A  
LEGAL DESCRIPTION**

All of Lots 1 through 30, inclusive, all of Lots T-1 through T-8, inclusive, and all "Common Area" and "Limited Common Area", inclusive, Hideout Canyon - Phase 1 - First Residential Plat, according to the official plat thereof, recorded June 27, 2005, as Entry No. 284926 in Book 764 at Page No. 424 of the official records, in the Office of the Wasatch County Recorder, State of Utah.

OHK-1001 through OHK-1030 and

Wasatch County Tax Serial Nos.:

OHK-10T1 through OHK-10T8.

All of Lots 31, 32, 33, 34 and 35, and all "Common Area" and "Limited Common Area", inclusive, Hideout Canyon Phase 1 - Pod 4 Residential Plat, according to the official plat thereof, recorded September 12, 2005, as Entry No. 288568 in Book 785 at Page No. 197 of the official records, in the Office of the Wasatch County Recorder, State of Utah.

Wasatch County Tax Serial Nos.: -OHK-1031, OHK-1032, OHK-1033, OHK-1034 and OHK-1035.

All of Lots C1, C2, C3, C4 and C5, Hideout Canyon Commercial Phase, according to the official plat thereof, recorded May 27, 2005, as Entry No. 283647 in Book 757 at Page No. 509 of the official records, in title Office of the Wasatch County Recorder, State of Utah.

Wasatch County Tax Serial Nos.: OHK-00C1, OHK.-00C2, OHK-00C3, OHK-00C4 and OHK-00C5.

**EXHIBIT "B"**

All of the following described property, or any division of, or new mapping thereof:

The following described real property located in Wasatch County, State of Utah, together with all rights appurtenant thereto:

**Tract No. 1:**

Those portions of Government lots 5 and 6; the West one-half of the Southeast quarter; and the East one-half of the Southwest quarter of Section 17, Township 2 South, Range 5 East, Salt Lake Base and Meridian; lying Southerly and Westerly of the Southwesterly right of way line of the New State Highway 189, as set forth on the Right of Way Plans of the Utah Department of Transportation, Project No. NF61(3).

EXCEPTING THEREFROM the following described Parcel:

A Parcel of land in said East one-half of the Southwest quarter and the Southwest quarter of the Southeast quarter of Section 17, more particularly described as follows:

Point of beginning lies South 88 degrees 32 minutes 14 seconds West 2400.00 feet along Section line from the Northeast corner of Section 20, Township 2 South, Range 5 East, said point has U.S.C. and G.S. plane grid coordinates North 839,790.42 feet and East 2,026,661.29 feet; thence South 88 degrees 32 minutes 14 seconds West 1589.7 feet along said Section line; thence North 00 degrees 28 minutes 53 seconds East 2666.2 feet along the West line of said East half of the Southwest quarter of Section 17; thence North 89 degrees 17 minutes 52 seconds East 500.00 feet along the North property line; thence South 22 degrees 04 minutes 00 seconds East 2839.7 feet to the point of beginning.

**Tract No. 2:**

Those portions of the Northeast quarter of Section 20, Township 2 South, Range 5 East, Salt Lake Base and Meridian lying Southerly and Westerly of the Southwesterly right of way line of the New State Highway 189, as set forth on the Right of Way Plans of the Utah Department of Transportation, Project No. NF-61(3).

**EXHIBIT B CONTINUED**

EXCEPTING THEREFROM the following described Parcel:

A Parcel of land in said West one-half of the Northeast quarter of Section 20, more particularly described as follows:

Point of beginning lies South 88 degrees 32 minutes 14 seconds West 2400.00 feet along the Section line from the Northeast corner of Section 20, Township 2 South, Range 5 East, said point has U.S.C. and G.S. plane grid coordinates North 839,790.42 feet and East 2,026,661.29 feet; thence South 22 degrees 04 minutes 00 seconds East 2813.20 feet; thence South 88 degrees 45 minutes 02 seconds West 1290.20 feet along the South line of the Northeast quarter of said Section 20; thence North 00 degrees 44 minutes 35' seconds West 2628.70 feet along the West line of the Northeast quarter of Section 20; thence North 88 degrees 32 minutes 14 seconds East 267.20 feet along said Section line to the point of beginning.

Tract No. 3:

Those portions of Government lot 2 and the Southeast quarter of the Northwest quarter of Section 21, Township 2 South, Range 5 East, Salt Lake Base and Meridian, lying Southerly and Westerly of the Southwesterly right of way line of the New State Highway 189, as set forth on the Right of Way Plans of the Utah Department of Transportation, Project No. NF-61(3).

EXCEPTING THEREFROM any portions lying within I.X.L. No. 3 Patented Lode Mining Claim

M.S. 5554.

LESS AND EXCLUDING FROM ALL OF THE ABOVE:

All of Lots 1 through 30, inclusive, all of Lots T-1 through T-8 inclusive, and all "Common Area" and "Limited Common Area", inclusive, Hideout Canyon - Phase 1 - First Residential Plat, according to the official plat thereof, recorded June 27, 2005, as Entry No. 284926 in Book 764 at Page No. 424 of the official records, in the Office of the Wasatch County Recorder, State of Utah.

All of Lots 31, 32, 33, 34 and 35 and all "Common Area" and "Limited Common Area," inclusive, Hideout Canyon Phase 1 - Pod 4 Residential Plat, according to the official plat thereof, recorded September 12, 2005, as Entry No. 288568 in Book 785 at Page No. 197 of the official records, in the Office of the Wasatch County Recorder, State of Utah.

All of Lots C1, C2, C3, C4 and C5, Hideout Canyon Commercial Phase, according to the official plat thereof, recorded May 27, 2005, as Entry No. 283647 in Book 757 at Page No. 509 of the official records, in the Office of the Wasatch County Recorder, State of Utah.

(2) Any real property now owned or hereafter acquired by Declarant within one (1) mile of the perimeter boundary of the above described property. Such property, if not now owned, must be acquired within ten (10) years of the date of recording of these restrictions.

After Recording Return To:  
**Hideout Canyon Homeowners Association**  
P.O. Box 2080  
Park City, Utah 84060

Ent 330382 Bk 957 Pg 1427-1432  
Date: 04-JAN-2008 11:22AM  
Fee: \$80.00 Check Filed By: JP  
ELIZABETH PALMIER, Recorder  
WASATCH COUNTY CORPORATION  
For: MUSTANG DEVELOPMENT

**FIRST AMENDMENT TO  
DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS  
For  
HIDEOUT CANYON**

**This Amendment to the Declaration of Covenants, Conditions, and Restrictions  
("Declaration") that established a planned residential community known as Hideout  
Canyon is made on the date evidenced below, upon approval of the requisite  
number of members, and as certified by the Hideout Canyon Home Owners  
Association ("Association").**

**RECITALS**

- A. Certain real property in Wasatch County, Utah, known as Hideout Canyon was subjected to certain covenants, conditions, and restrictions pursuant to a Declaration dated October 6, 2005, and recorded as Document Entry No. 290025, Book 792, Page 493, et. seq., records of Wasatch County, Utah;
- B. This amendment shall be binding against the property described in the Declaration and any annexation or supplements thereto, namely, those properties attached hereto as **Exhibits A and B**.
- C. This amendment is intended to reallocate certain maintenance responsibilities between the Owners and the Association for the Phase I "**Overlook Village**" Lots 1-32, 34-39, and T1-T8, as further described below.
- D. It is intended that this amendment will add value to such Units and to the Association as a whole. Units receiving services provided exclusively to said Units shall be assessed for such services without the need or obligation to assess those Lots and Homes that do not benefit from these same services (See Article X, Section 10.7 of the Declaration).
- E. Pursuant to Article XVII of the Declaration, the necessary approvals to amend the Declaration were duly received to adopt and record this amendment.

**NOW, THEREFORE**, The Association, by and through its Board of Directors, hereby amends Article V, by adding Section 5.1.1 and amending Section 5.2 of the Declaration of Covenants, Conditions and Restrictions to read as follows (all other Sections of Article V remain unchanged):

## ARTICLE V

### MAINTENANCE

5.1.1 Association's Responsibility for Units located within Phase I "Overlook Village" Lots 1-32, 34-39, and T1-T8. Notwithstanding anything in this Declaration to the contrary, the Association shall maintain, repair and keep in good condition all approved Unit exteriors, including landscaping, roofs, sidewalks and driveways for Phase I "Overlook Village" Lots 1-32, 34-39, and T1-T8. All determinations regarding the scope of maintenance/repairs, the necessity of maintenance/repairs, the timing of maintenance/repairs and the priority of maintenance/repairs, etc., shall fall exclusively within the sole and absolute jurisdiction and decision making authority of the Board of Directors. In addition, the Association shall be responsible for reasonable snow removal from the driveways and entry walkways (up to the front door, including front porch steps, as necessary) of said Lots. The cost of this service is set forth below in Article X, Section 10.7 of this Declaration. Consistent with Article VI, Section 6.1, the Association shall address, as it deems appropriate, insurance needs for areas over which it has assumed maintenance responsibilities. The scope of the obligations assumed by the Association with respect to the Units described herein is to be the normal, customary and day-to-day maintenance and repair of the Unit exteriors and does not include any repair, maintenance, or replacement in connection with a casualty loss, all of which are, and shall remain, the obligation of the Owner (whether caused by the owner, its guests, tenants, or invitees).

5.2 Owner's Responsibility. Except as otherwise provided in Section 5.1.1 above, each Owner shall maintain his or her Unit and all structures, driveways, parking areas, landscaping, and other improvements comprising the Unit in a manner consistent with the "Community-Wide Standard" and all applicable covenants unless such maintenance responsibility is otherwise assumed by or assigned to the Association pursuant to any Supplemental Declaration or other declaration of covenants applicable to such Unit(s). In addition to any other enforcement rights, if an Owner fails properly to perform his or her maintenance responsibility, the Association may perform such maintenance responsibilities and assess all costs incurred by the Association against the Unit and the Owner in accordance with Section 10.7(c). The Association shall afford the Owner reasonable notice and an opportunity to cure the problem prior to entry, except when entry is required due to an emergency situation. An "emergency situation" shall be as reasonably determined in the sole discretion of the Board.



All of Lots 1 through 30, inclusive, all of Lots T-1 through T-8, inclusive, and all "Common Area" and "Limited Common Area", inclusive, Hideout Canyon - Phase 1 - First Residential Plat, according to the official plat thereof, recorded June 27, 2005, as Entry No. 284926 in Book 764 at Page No. 424 of the official records, in the Office of the Wasatch County Recorder, State of Utah.

Wasatch County Tax Serial Nos.: OHK-1001 through OHK-1030 and OHK-10T1 through OHK-10T8.

All of Lots 31, 32, 33, 34 and 35, and all "Common Area" and "Limited Common Area", inclusive, Hideout Canyon Phase 1 - Pod 4 Residential Plat, according to the official plat thereof, recorded September 12, 2005, as Entry No. 288568 in Book 785 at Page No. 197 of the official records, in the Office of the Wasatch County Recorder, State of Utah.  
Wasatch County Tax Serial Nos: OHK-1031, OHK-1032, OHK-1033, OHK-1034 and OHK-1035.

All of Lots C1, C2, C3, C4 and C5, Hideout Canyon Commercial Phase, according to the official plat thereof, recorded May 27, 2005, as Entry No. 283647 in Book 757 at Page No. 509 of the official records, in title Office of the Wasatch County Recorder, State of Utah.

Wasatch County Tax Serial Nos.: OHK-00C1, OHK.-00C2, OHK-00C3, OHK-00C4 and OHK-00C5.

**EXHIBIT "B"**

All of the following described property, or any division of, or new mapping thereof:  
The following described real property located in Wasatch County, State of Utah, together with all rights appurtenant thereto:

Tract No. 1:

Those portions of Government lots 5 and 6; the West one-half of the Southeast quarter; and the East one-half of the Southwest quarter of Section 17, Township 2 South, Range 5 East, Salt Lake Base and Meridian; lying Southerly and Westerly of the Southwesterly right of way line of the New State Highway 189, as set forth on the Right of Way Plans of the Utah Department of Transportation, Project No. NF- 61(3).

EXCEPTING THEREFROM the following described Parcel:

A Parcel of land in said East one-half of the Southwest quarter and the Southwest quarter of the Southeast quarter of Section 17, more particularly described as follows:

Point of beginning lies South 88 degrees 32 minutes 14 seconds West 2400.00 feet along Section line from the Northeast corner of Section 20, Township 2 South, Range 5 East, said point has U.S.C. and G.S. plane grid coordinates North 839,790.42 feet and East 2,026,661.29 feet; thence South 88 degrees 32 minutes 14 seconds West 1589.7 feet along said Section line; thence North 00 degrees 28 minutes 53 seconds East 2666.2 feet along the West line of said East half of the Southwest quarter of Section 17; thence North 89 degrees 17 minutes 52 seconds East 500.00 feet along the North property line; thence South 22 degrees 04 minutes 00 seconds East 2839.7 feet to the point of beginning.

Tract No. 2:

Those portions of the Northeast quarter of Section 20, Township 2 South, Range 5 East, Salt Lake Base and Meridian lying Southerly and Westerly of the Southwesterly right of way line of the New State Highway 189, as set forth on the Right of Way Plans of the Utah Department of Transportation, Project No. NF-61(3).

EXCEPTING THEREFROM the following described Parcel:

A Parcel of land in said West one-half of the Northeast quarter of Section 20, more particularly described as follows:

Point of beginning lies South 88 degrees 32 minutes 14 seconds West 2400.00 feet along the Section line from the Northeast corner of Section 20, Township 2 South, Range 5 East, said point has U.S.C. and G.S. plane grid coordinates North 839,790.42 feet and East 2,026,661.29 feet; thence South 22 degrees 04 minutes 00 seconds East 2813.20 feet; thence South 88 degrees 45 minutes 02 seconds West 1290.20 feet along the South line of the Northeast quarter of said Section 20; thence North 00 degrees 44 minutes 35'

**EXHIBIT "B" CONTINUED**

seconds West 2628.70 feet along the West line of the Northeast quarter of Section 20; thence North 88 degrees 32 minutes 14 seconds East 267.20 feet along said Section line to the point of beginning.

Tract No. 3:

Those portions of Government lot 2 and the Southeast quarter of the Northwest quarter of Section 21, Township 2 South, Range 5 East, Salt Lake Base and Meridian, lying Southerly and Westerly of the Southwesterly right of way line of the New State Highway 189, as set forth on the Right of Way Plans of the Utah Department of Transportation, Project No. NF-61(3).

EXCEPTING THEREFROM any portions lying within I.X.L. No. 3 Patented Lode Mining Claim M.S. 5554.

LESS AND EXCLUDING FROM ALL OF THE ABOVE:

All of Lots 1 through 30, inclusive, all of Lots T-1 through T-8 inclusive, and all "Common Area" and "Limited Common Area", inclusive, Hideout Canyon - Phase 1 - First Residential Plat, according to the official plat thereof, recorded June 27, 2005, as Entry No. 284926 in Book 764 at Page No. 424 of the official records, in the Office of the Wasatch County Recorder, State of Utah.

All of Lots 31, 32, 33, 34 and 35 and all "Common Area" and "Limited Common Area," inclusive, Hideout Canyon Phase 1 - Pod 4 Residential Plat, according to the official plat thereof, recorded September 12, 2005, as Entry No. 288568 in Book 785 at Page No. 197 of the official records, in the Office of the Wasatch County Recorder, State of Utah.

All of Lots C1, C2, C3, C4 and C5, Hideout Canyon Commercial Phase, according to the official plat thereof, recorded May 27, 2005, as Entry No. 283647 in Book 757 at Page No. 509 of the official records, in the Office of the Wasatch County Recorder, State of Utah.

(2) Any real property now owned or hereafter acquired by Declarant within one (1) mile of the perimeter boundary of the above described property. Such property, if not now owned, must be acquired within ten (10) years of the date of recording of these restrictions.

After Recording Return To:  
**Hideout Canyon Homeowners Association**  
P.O. Box 2080  
Park City, Utah 84060

Ent 330383 Bk 957 Pg 1433-1438  
Date: 04-JAN-2008 11:23AM  
Fee: \$80.00 Check Filed By: JP  
ELIZABETH PALMIER, Recorder  
WASATCH COUNTY CORPORATION  
For: MUSTANG DEVELOPMENT

**SECOND AMENDMENT TO  
DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS  
For  
HIDEOUT CANYON**

**This Amendment to the Declaration of Covenants, Conditions, and Restrictions  
("Declaration") that established a planned residential community known as Hideout  
Canyon is made on the date evidenced below, upon approval of the requisite  
number of members, and as certified by the Hideout Canyon Home Owners  
Association ("Association").**

**RECITALS**

- A. Certain real property in Wasatch County, Utah, known as Hideout Canyon is subject to certain covenants, conditions, and restrictions pursuant to a Declaration dated October 6, 2005, and recorded as Document Entry No. 290025, Book 792, Page 493, et. seq., records of Wasatch County, Utah;
- B. This amendment shall be binding against the property described in the Declaration and any annexation or supplements thereto, namely, those properties attached hereto as **Exhibits A and B**.
- C. This Amendment has been consented to and approved by the affirmative vote or written consent, or any combination thereof, of Voting Members representing seventy-five percent (75%) of each class of Members, said consents are on record with the Association.
- D. This Amendment has been consented to and approved in writing by the Declarant, as it is defined in Article XI, Section 11.1 of the Declaration, said writing is on record with the Association.

**NOW, THEREFORE**, The Association, by and through its Board of Directors, hereby amends Article XI, Section 11.1 of the Declaration of Covenants, Conditions and Restrictions to read as follows (all other Sections of Article XI remain unchanged):

**ARTICLE XI**

**ARCHITECTURAL STANDARDS**

11.1 General. No structure shall be placed, erected, or installed upon any Unit, and no improvements (including staking, clearing, excavation, grading and other site work, exterior alteration of existing improvements, planting or removal of landscape materials, and installation or removal of an irrigation system) shall take place except in compliance

with this Article and the Design Guidelines and upon the approval of the appropriate committee under Section 11.2.

Any Owner may remodel, paint or redecorate the interior of structures on his or her Unit without approval. However, modifications to the interior of screened porches, patios, and similar portions of a Unit visible from outside the structures on the Unit shall be subject to approval. No approval shall be required to repaint the exterior of a structure in accordance with the originally approved color scheme or to rebuild in accordance with originally approved plans and specifications.

All dwellings and landscaping constructed or placed on any portion of the Properties shall be designed by and built in accordance with the plans and specifications of a licensed architect. Only plans and specifications of a licensed architect will be reviewed.

This Article shall not apply to the activities of the Declarant, nor to improvements to the Common Area by, or on behalf of, the Association.

This Article may not be amended without the Declarant's written consent so long as the Declarant owns any land subject to this Declaration or subject to annexation to this Declaration.



**EXHIBIT A  
LEGAL DESCRIPTION**

All of Lots 1 through 30, inclusive, all of Lots T-1 through T-8, inclusive, and all "Common Area" and "Limited Common Area", inclusive, Hideout Canyon - Phase 1 - First Residential Plat, according to the official plat thereof, recorded June 27, 2005, as Entry No. 284926 in Book 764 at Page No. 424 of the official records, in the Office of the Wasatch County Recorder, State of Utah.

Wasatch County Tax Serial Nos.: OHK-1001 through OHK-1030 and OHK-10T1 through OHK-10T8.

All of Lots 31, 32, 33, 34 and 35, and all "Common Area" and "Limited Common Area", inclusive, Hideout Canyon Phase 1 - Pod 4 Residential Plat, according to the official plat thereof, recorded September 12, 2005, as Entry No. 288568 in Book 785 at Page No. 197 of the official records, in the Office of the Wasatch County Recorder, State of Utah.  
Wasatch County Tax Serial Nos: OHK-1031, OHK-1032, OHK-1033, OHK-1034 and OHK-1035.

All of Lots C1, C2, C3, C4 and C5, Hideout Canyon Commercial Phase, according to the official plat thereof, recorded May 27, 2005, as Entry No. 283647 in Book 757 at Page No. 509 of the official records, in title Office of the Wasatch County Recorder, State of Utah.

Wasatch County Tax Serial Nos.: OHK-00C1, OHK.-00C2, OHK-00C3, OHK-00C4 and OHK-00C5.

**EXHIBIT "B"**

All of the following described property, or any division of, or new mapping thereof:  
The following described real property located in Wasatch County, State of Utah, together  
with all rights appurtenant thereto:

Tract No. 1:

Those portions of Government lots 5 and 6; the West one-half of the Southeast quarter;  
and the East one-half of the Southwest quarter of Section 17, Township 2 South, Range 5  
East, Salt Lake Base and Meridian; lying Southerly and Westerly of the Southwesterly  
right of way line of the New State Highway 189, as set forth on the Right of Way Plans  
of the Utah Department of Transportation, Project No. NF- 61(3).

EXCEPTING THEREFROM the following described Parcel:

A Parcel of land in said East one-half of me Southwest quarter and the Southwest quarter  
of the Southeast quarter of Section 17, more particularly described as follows:

Point of beginning lies South 88 degrees 32 minutes 14 seconds West 2400.00 feet along  
Section line from the Northeast corner of Section 20, Township 2 South, Range 5 East,  
said point has U.S.C. and G.S. plane grid coordinates North 839,790.42 feet and East  
2,026,661.29 feet; thence South 88 degrees 32 minutes 14 seconds West 1589.7 feet  
along said Section line; thence North 00 degrees 28 minutes 53 seconds East 2666.2 feet  
along the West line of said East half of the Southwest quarter of Section 17; thence North  
89 degrees 17 minutes 52 seconds East 500.00 feet along the North property line; thence  
South 22 degrees 04 minutes 00 seconds East 2839.7 feet to the point of beginning.

Tract No. 2:

Those portions of the Northeast quarter of Section 20, Township 2 South, Range 5 East,  
Salt Lake Base and Meridian lying Southerly and Westerly of the Southwesterly right of  
way line of me New State Highway 189, as set forth on the Right of Way Plans of the  
Utah Department of Transportation, Project No. NF-61(3).

EXCEPTING THEREFROM the following described Parcel:

A Parcel of land in said West one-half of the Northeast quarter of Section 20, more  
particularly described as follows:

Point of beginning lies South 88 degrees 32 minutes 14 seconds West 2400.00 feet along  
the Section line from the Northeast corner of Section 20, Township 2 South, Range 5  
East, said point has U.S.C. and G.S. plane grid coordinates North 839,790.42 feet and  
East 2,026,661.29 feet; thence South 22 degrees 04 minutes 00 seconds East 2813.20  
feet; thence South 88 degrees 45 minutes 02 seconds West 1290.20 feet along the South  
line of the Northeast quarter of said Section 20; thence North 00 degrees 44 minutes 35'

**EXHIBIT "B" CONTINUED**

seconds West 2628.70 feet along the West line of the Northeast quarter of Section 20; thence North 88 degrees 32 minutes 14 seconds East 267.20 feet along said Section line to the point of beginning.

Tract No. 3:

Those portions of Government lot 2 and the Southeast quarter of the Northwest quarter of Section 21, Township 2 South, Range 5 East, Salt Lake Base and Meridian, lying Southerly and Westerly of the Southwesterly right of way line of the New State Highway 189, as set forth on the Right of Way Plans of the Utah Department of Transportation, Project No. NF-61(3).

EXCEPTING THEREFROM any portions lying within I.X.L. No. 3 Patented Lode Mining Claim M.S. 5554.

LESS AND EXCLUDING FROM ALL OF THE ABOVE:

All of Lots 1 through 30, inclusive, all of Lots T-1 through T-8 inclusive, and all "Common Area" and "Limited Common Area", inclusive, Hideout Canyon - Phase 1 - First Residential Plat, according to the official plat thereof, recorded June 27, 2005, as Entry No. 284926 in Book 764 at Page No. 424 of the official records, in the Office of the Wasatch County Recorder, State of Utah.

All of Lots 31, 32, 33, 34 and 35 and all "Common Area" and "Limited Common Area," inclusive, Hideout Canyon Phase 1 - Pod 4 Residential Plat, according to the official plat thereof, recorded September 12, 2005, as Entry No. 288568 in Book 785 at Page No. 197 of the official records, in the Office of the Wasatch County Recorder, State of Utah.

All of Lots C1, C2, C3, C4 and C5, Hideout Canyon Commercial Phase, according to the official plat thereof, recorded May 27, 2005, as Entry No. 283647 in Book 757 at Page No. 509 of the official records, in the Office of the Wasatch County Recorder, State of Utah.

(2) Any real property now owned or hereafter acquired by Declarant within one (1) mile of the perimeter boundary of the above described property. Such property, if not now owned, must be acquired within ten (10) years of the date of recording of these restrictions.

After Recording Return To:  
**Hideout Canyon Homeowners Association**  
P.O. Box 2080  
Park City, Utah 84060

Ent 330384 Bk 957 Pg 1439-1444  
Date: 04-JAN-2009 11:24AM  
Fee: \$80.00 Check Filed By: JP  
ELIZABETH PALMIER, Recorder  
WASATCH COUNTY CORPORATION  
For: MUSTANG DEVELOPMENT

**THIRD AMENDMENT TO  
DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS  
For  
HIDEOUT CANYON**

**This Amendment to the Declaration of Covenants, Conditions, and Restrictions (“Declaration”) that established a planned residential community known as Hideout Canyon is made on the date evidenced below, upon approval of the requisite number of members, and as certified by the Hideout Canyon Home Owners Association (“Association”).**

**RECITALS**

- A. Certain real property in Wasatch County, Utah, known as Hideout Canyon is subject to certain covenants, conditions, and restrictions pursuant to a Declaration dated October 6, 2005, and recorded as Document Entry No. 290025, Book 792, Page 493, et. seq., records of Wasatch County, Utah;
- B. This amendment shall be binding against the property described in the Declaration and any annexation or supplements thereto, namely, those properties attached hereto as **Exhibits A and B**.
- C. These Amendments are to help fund the Association’s operations and to more fairly distribute expenses that benefit fewer than all Owners.
- D. These Amendment has been consented to and approved by the affirmative vote or written consent, or any combination thereof, of Voting Members representing seventy-five percent (75%) of each class of Members, said consents are on record with the Association.
- E. Pursuant to Article XVII, Section 17.2 of the Declaration, the necessary approvals to amend the Declaration were duly received to adopt and record these Amendments.

**NOW, THEREFORE**, The Association, by and through its Board of Directors, hereby amends Article X, Section 10.7 of the Declaration to read as follows: (all other Sections of Article X remain unchanged):

**ARTICLE X**

**ASSESSMENTS**

10.7 Specific Assessments. The Board shall have the power to levy Specific Assessments against a particular Unit or Units constituting less than all Units within the Properties as follows:

- (a) To cover the costs, including insurance as the case may be, associated with and related to the Association's obligations for Lots 1-32, 34-39, and T1-T8 as set forth in Section 5.1.1 of this Declaration.
- (b) To cover the costs, including overhead and administrative costs, of providing benefits, items, or services to the Unit or occupants thereof upon request of the Owner pursuant to a menu of special services which the Board may from time to time authorize to be offered to Owners (which might include, without limitation, landscape maintenance, snow removal, handyman service, pool cleaning, pest control, etc.), which assessments may be levied in advance of the provision of the requested benefit, item or service as a deposit against charges to be incurred by the Owner; and
- (c) To cover costs incurred in bringing the Unit into compliance with the terms of this Declaration, any applicable Supplemental Declaration, the Bylaws or rules, or costs incurred as a consequence of the conduct of the Owner or occupants of the Unit, their licensees, invitees, or guests; provided, the Board shall give the Unit Owner prior written notice and an opportunity for a hearing before levying a Specific Assessment under this subsection (c).



**EXHIBIT A  
LEGAL DESCRIPTION**

All of Lots 1 through 30, inclusive, all of Lots T-1 through T-8, inclusive, and all "Common Area" and "Limited Common Area", inclusive, Hideout Canyon - Phase 1 - First Residential Plat, according to the official plat thereof, recorded June 27, 2005, as Entry No. 284926 in Book 764 at Page No. 424 of the official records, in the Office of the Wasatch County Recorder, State of Utah.

Wasatch County Tax Serial Nos.: OHK-1001 through OHK-1030 and OHK-10T1 through OHK-10T8.

All of Lots 31, 32, 33, 34 and 35, and all "Common Area" and "Limited Common Area", inclusive, Hideout Canyon Phase 1 - Pod 4 Residential Plat, according to the official plat thereof, recorded September 12, 2005, as Entry No. 288568 in Book 785 at Page No. 197 of the official records, in the Office of the Wasatch County Recorder, State of Utah.

Wasatch County Tax Serial Nos: OHK-1031, OHK-1032, OHK-1033, OHK-1034 and OHK-1035.

All of Lots C1, C2, C3, C4 and C5, Hideout Canyon Commercial Phase, according to the official plat thereof, recorded May 27, 2005, as Entry No. 283647 in Book 757 at Page No. 509 of the official records, in title Office of the Wasatch County Recorder, State of Utah.

Wasatch County Tax Serial Nos.: OHK-00C1, OHK.-00C2, OHK-00C3, OHK-00C4 and OHK-00C5.

**EXHIBIT "B"**

All of the following described property, or any division of, or new mapping thereof:  
The following described real property located in Wasatch County, State of Utah, together with all rights appurtenant thereto:

Tract No. 1:

Those portions of Government lots 5 and 6; the West one-half of the Southeast quarter; and the East one-half of the Southwest quarter of Section 17, Township 2 South, Range 5 East, Salt Lake Base and Meridian; lying Southerly and Westerly of the Southwesterly right of way line of the New State Highway 189, as set forth on the Right of Way Plans of the Utah Department of Transportation, Project No. NF- 61(3).

EXCEPTING THEREFROM the following described Parcel:

A Parcel of land in said East one-half of me Southwest quarter and the Southwest quarter of the Southeast quarter of Section 17, more particularly described as follows:

Point of beginning lies South 88 degrees 32 minutes 14 seconds West 2400.00 feet along Section line from the Northeast corner of Section 20, Township 2 South, Range 5 East, said point has U.S.C. and G.S. plane grid coordinates North 839,790.42 feet and East 2,026,661.29 feet; thence South 88 degrees 32 minutes 14 seconds West 1589.7 feet along said Section line; thence North 00 degrees 28 minutes 53 seconds East 2666.2 feet along the West line of said East half of the Southwest quarter of Section 17; thence North 89 degrees 17 minutes 52 seconds East 500.00 feet along the North property line; thence South 22 degrees 04 minutes 00 seconds East 2839.7 feet to the point of beginning.

Tract No. 2:

Those portions of the Northeast quarter of Section 20, Township 2 South, Range 5 East, Salt Lake Base and Meridian lying Southerly and Westerly of the Southwesterly right of way line of me New State Highway 189, as set forth on the Right of Way Plans of the Utah Department of Transportation, Project No. NF-61(3).

EXCEPTING THEREFROM the following described Parcel:

A Parcel of land in said West one-half of the Northeast quarter of Section 20, more particularly described as follows:

Point of beginning lies South 88 degrees 32 minutes 14 seconds West 2400.00 feet along the Section line from the Northeast corner of Section 20, Township 2 South, Range 5 East, said point has U.S.C. and G.S. plane grid coordinates North 839,790.42 feet and East 2,026,661.29 feet; thence South 22 degrees 04 minutes 00 seconds East 2813.20 feet; thence South 88 degrees 45 minutes 02 seconds West 1290.20 feet along the South line of the Northeast quarter of said Section 20; thence North 00 degrees 44 minutes 35'

**EXHIBIT "B" CONTINUED**

seconds West 2628.70 feet along the West line of the Northeast quarter of Section 20; thence North 88 degrees 32 minutes 14 seconds East 267.20 feet along said Section line to the point of beginning.

Tract No. 3:

Those portions of Government lot 2 and the Southeast quarter of the Northwest quarter of Section 21, Township 2 South, Range 5 East, Salt Lake Base and Meridian, lying Southerly and Westerly of the Southwesterly right of way line of the New State Highway 189, as set forth on the Right of Way Plans of the Utah Department of Transportation, Project No. NF-61(3).

EXCEPTING THEREFROM any portions lying within I.X.L. No. 3 Patented Lode Mining Claim M.S. 5554.

LESS AND EXCLUDING FROM ALL OF THE ABOVE:

All of Lots 1 through 30, inclusive, all of Lots T-1 through T-8 inclusive, and all "Common Area" and "Limited Common Area", inclusive, Hideout Canyon - Phase 1 - First Residential Plat, according to the official plat thereof, recorded June 27, 2005, as Entry No. 284926 in Book 764 at Page No. 424 of the official records, in the Office of the Wasatch County Recorder, State of Utah.

All of Lots 31, 32, 33, 34 and 35 and all "Common Area" and "Limited Common Area," inclusive, Hideout Canyon Phase 1 - Pod 4 Residential Plat, according to the official plat thereof, recorded September 12, 2005, as Entry No. 288568 in Book 785 at Page No. 197 of the official records, in the Office of the Wasatch County Recorder, State of Utah.

All of Lots C1, C2, C3, C4 and C5, Hideout Canyon Commercial Phase, according to the official plat thereof, recorded May 27, 2005, as Entry No. 283647 in Book 757 at Page No. 509 of the official records, in the Office of the Wasatch County Recorder, State of Utah.

(2) Any real property now owned or hereafter acquired by Declarant within one (1) mile of the perimeter boundary of the above described property. Such property, if not now owned, must be acquired within ten (10) years of the date of recording of these restrictions.

After Recording Return To:  
**Hideout Canyon Homeowners Association**  
P.O. Box 2080  
Park City, Utah 84060

Ent 330385 Bk 957 Pg 1445-1450  
Date: 04-JAN-2008 11:24AM  
Fee: \$80.00 Check Filed By: JP  
ELIZABETH PALMIER, Recorder  
WASATCH COUNTY CORPORATION  
For: MUSTANG DEVELOPMENT

**FOURTH AMENDMENT TO  
THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR HIDEOUT CANYON**

**This Amendment to the Declaration of Covenants, Conditions and Restrictions of HIDEOUT CANYON (the "Declaration") that established the Hideout Canyon Association (the "Association") is made on the date evidenced below by the Mustang Development, LLC, a Utah limited liability company ("Declarant").**

**RECITALS**

A. Certain real property in Wasatch County, Utah, known as Hideout Canyon were subjected to certain covenants, conditions, and restrictions pursuant to a Declaration dated October 6, 2005 and recorded as Entry No. 290025, in Book 792 at Page 493 in the Recorder's Office for Wasatch County, Utah;

B. This amendment shall be binding against all of the property described in the Declaration and any annexation, expansion or supplement thereto. Namely, all of Hideout Canyon, more particularly described in the attached Exhibits "A" and "B."

C. This Amendment has been consented to and approved by the affirmative vote or written consent, or any combination thereof, of Voting Members representing seventy-five percent (75%) of each class of Members, said consents are on record with the Association.

D. Pursuant to Article XVII, Section 17.2 of the Declaration, the necessary approvals to amend the Declaration were duly received to adopt and record this Amendment.

The Association, by and through its Board of Directors, hereby proposes the amendment of Article XI, Section 11.4 as follows:

**11.4 Submission of Plans and Specifications.**

a) No construction or improvements shall be commenced, erected, placed or maintained on any Unit, nor shall any exterior addition, change or alteration be made thereto, until the completed plans and specifications ("Plans") showing site layout, structural design, exterior elevations, exterior materials and colors, signs, landscaping, drainage, lighting, irrigation, utility facilities layout, and screening therefore shall have been submitted to and approved in writing by the DRC. The Design Guidelines shall set forth the procedure for submission of the Plans.

(b) In reviewing each submission, the DRC may consider visual and environmental impact, ecological compatibility, natural platforms and finish grade elevation, harmony of external design with surrounding structures and environment, and location in relation to surrounding structures and plant life. The committee may require relocation of native plants within the construction site or the installation of an irrigation system for the landscaping, including the natural plant life on the Unit, as condition of approval of any submission.

The DRC shall within 45 days after receipt of each submission of the Plans, advise the party submitting the same in writing at an address specified by such party at the time of the submission of (i) the approval of Plans, or (ii) the segments or features of the Plans which are deemed by such committee to be inconsistent or not in conformity with the Declaration and/or the Design Guidelines, the reason for such findings and suggestions for the curing of such objections. In the event that the committee fails to advise the submitting party by written notice within the time set forth above, of either the approval or disapproval of the Plans, the submitting party shall send to the committee, by certified mail, a letter demanding a response from the committee. If the submitting party has not received a response from the committee, either approving or disapproving the Plans, within fifteen (15) days after receipt of the letter by the committee as indicated by the certified mailing receipt date, then approval shall be deemed to have been given. Notice shall be deemed to have been given at the time the envelope containing such notice, properly addressed, and postage prepaid, is deposited with the U.S. Postal Service, registered or certified mail, return receipt requested or another commercially recognized means of delivery (e.g., Federal Express). Personal delivery of such written notice shall, however, be sufficient and shall be deemed to have been given at the time of delivery.

(c) If construction does not commence on a project for which Plans have been approved within twelve (12) months of such approval, such approval shall be deemed withdrawn and it shall be necessary to resubmit the Plans to the DRC for reconsideration.



**EXHIBIT A  
LEGAL DESCRIPTION**

All of Lots 1 through 30, inclusive, all of Lots T-1 through T-8, inclusive, and all "Common Area" and "Limited Common Area", inclusive, Hideout Canyon - Phase 1 - First Residential Plat, according to the official plat thereof, recorded June 27, 2005, as Entry No. 284926 in Book 764 at Page No. 424 of the official records, in the Office of the Wasatch County Recorder, State of Utah.

OHK-1001 through OHK-1030 and

Wasatch County Tax Serial Nos.:

OHK-10T1 through OHK-10T8.

All of Lots 31, 32, 33, 34 and 35, and all "Common Area" and "Limited Common Area", inclusive, Hideout Canyon Phase 1 - Pod 4 Residential Plat, according to the official plat thereof, recorded September 12, 2005, as Entry No. 288568 in Book 785 at Page No. 197 of the official records, in the Office of the Wasatch County Recorder, State of Utah.

Wasatch County Tax Serial Nos.: -OHK-1031, OHK-1032, OHK-1033, OHK-1034 and OHK-1035.

All of Lots C1, C2, C3, C4 and C5, Hideout Canyon Commercial Phase, according to the official plat thereof, recorded May 27, 2005, as Entry No. 283647 in Book 757 at Page No. 509 of the official records, in title Office of the Wasatch County Recorder, State of Utah.

Wasatch County Tax Serial Nos.: OHK-00C1, OHK.-00C2, OHK-00C3, OHK-00C4 and OHK-00C5.

**EXHIBIT "B"**

All of the following described property, or any division of, or new mapping thereof:

The following described real property located in Wasatch County, State of Utah, together with all rights appurtenant thereto:

Tract No. 1:

Those portions of Government lots 5 and 6; the West one-half of the Southeast quarter; and the East one-half of the Southwest quarter of Section 17, Township 2 South, Range 5 East, Salt Lake Base and Meridian; lying Southerly and Westerly of the Southwesterly right of way line of the New State Highway 189, as set forth on the Right of Way Plans of the Utah Department of Transportation, Project No. NF61(3).

EXCEPTING THEREFROM the following described Parcel:

A Parcel of land in said East one-half of me Southwest quarter and the Southwest quarter of the Southeast quarter of Section 17, more particularly described as follows:

Point of beginning lies South 88 degrees 32 minutes 14 seconds West 2400.00 feet along Section line from the Northeast corner of Section 20, Township 2 South, Range 5 East, said point has U.S.C. and G.S. plane grid coordinates North 839,790.42 feet and East 2,026,661.29 feet; thence South 88 degrees 32 minutes 14 seconds West 1589.7 feet along said Section line; thence North 00 degrees 28 minutes 53 seconds East 2666.2 feet along the West line of said East half of the Southwest quarter of Section 17; thence North 89 degrees 17 minutes 52 seconds East 500.00 feet along the North property line; thence South 22 degrees 04 minutes 00 seconds East 2839.7 feet to the point of beginning.

Tract No. 2:

Those portions of the Northeast quarter of Section 20, Township 2 South, Range 5 East, Salt Lake Base and Meridian lying Southerly and Westerly of the Southwesterly right of way line of me New State Highway 189, as set forth on the Right of Way Plans of the Utah Department of Transportation, Project No. NF-61(3).

**EXHIBIT B CONTINUED**

EXCEPTING THEREFROM the following described Parcel:

A Parcel of land in said West one-half of the Northeast quarter of Section 20, more particularly described as follows:

Point of beginning lies South 88 degrees 32 minutes 14 seconds West 2400.00 feet along the Section line from the Northeast corner of Section 20, Township 2 South, Range 5 East, said point has U.S.C. and G.S. plane grid coordinates North 839,790.42 feet and East 2,026,661.29 feet; thence South 22 degrees 04 minutes 00 seconds East 2813.20 feet; thence South 88 degrees 45 minutes 02 seconds West 1290.20 feet along the South line of the Northeast quarter of said Section 20; thence North 00 degrees 44 minutes 35' seconds West 2628.70 feet along the West line of the Northeast quarter of Section 20; thence North 88 degrees 32 minutes 14 seconds East 267.20 feet along said Section line to the point of beginning.

Tract No. 3:

Those portions of Government lot 2 and the Southeast quarter of the Northwest quarter of Section 21, Township 2 South, Range 5 East, Salt Lake Base and Meridian, lying Southerly and Westerly of the Southwesterly right of way line of the New State Highway 189, as set forth on the Right of Way Plans of the Utah Department of Transportation, Project No. NF-61(3).

EXCEPTING THEREFROM any portions lying within I.X.L. No. 3 Patented Lode Mining Claim

M.S. 5554.

LESS AND EXCLUDING FROM ALL OF THE ABOVE:

All of Lots 1 through 30, inclusive, all of Lots T-1 through T-8 inclusive, and all "Common Area" and "Limited Common Area", inclusive, Hideout Canyon - Phase 1 - First Residential Plat, according to the official plat thereof, recorded June 27, 2005, as Entry No. 284926 in Book 764 at Page No. 424 of the official records, in the Office of the Wasatch County Recorder, State of Utah.

All of Lots 31, 32, 33, 34 and 35 and all "Common Area" and "Limited Common Area," inclusive, Hideout Canyon Phase 1 - Pod 4 Residential Plat, according to the official plat thereof, recorded September 12, 2005, as Entry No. 288568 in Book 785 at Page No. 197 of the official records, in the Office of the Wasatch County Recorder, State of Utah.

All of Lots C1, C2, C3, C4 and C5, Hideout Canyon Commercial Phase, according to the official plat thereof, recorded May 27, 2005, as Entry No. 283647 in Book 757 at Page No. 509 of the official records, in the Office of the Wasatch County Recorder, State of Utah.

(2) Any real property now owned or hereafter acquired by Declarant within one (1) mile of the perimeter boundary of the above described property. Such property, if not now owned, must be acquired within ten (10) years of the date of recording of these restrictions.

After Recording Return To:  
**Hideout Canyon Homeowners Association**  
P.O. Box 2080  
Park City, Utah 84060

Ent. 330386 W 957 Pg 1451-1458  
Date: 04-JAN-2008 11:25AM  
Fee: \$80.00 Check Filed By: JP  
ELIZABETH PALMIER, Recorder  
WASATCH COUNTY CORPORATION  
For: MUSTANG DEVELOPMENT

**FIFTH AMENDMENT TO  
THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR HIDEOUT CANYON**

**This Amendment to the Declaration of Covenants, Conditions and Restrictions of HIDEOUT CANYON (the "Declaration") that established the Hideout Canyon Association (the "Association") is made on the date evidenced below by the Mustang Development, LLC, a Utah limited liability company ("Declarant").**

**RECITALS**

- A. Certain real property in Wasatch County, Utah, known as Hideout Canyon were subjected to certain covenants, conditions, and restrictions pursuant to a Declaration dated October 6, 2005 and recorded as Entry No. 290025, in Book 792 at Page 493 in the Recorder's Office for Wasatch County, Utah;
- B. This amendment shall be binding against all of the property described in the Declaration and any annexation, expansion or supplement thereto. Namely, all of Hideout Canyon, more particularly described in the attached Exhibits "A" and "B."
- C. This Amendment has been consented to and approved by the affirmative vote or written consent, or any combination thereof, of Voting Members representing seventy-five percent (75%) of each class of Members, said consents are on record with the Association.
- D. Pursuant to Article XVII, Section 17.2 of the Declaration, the necessary approvals to amend the Declaration were duly received to adopt and record this Amendment.
- E. This Amendment is intended to correct a typographical error in Article IV and clarify the indemnification provision of Article XVI of the Declaration.

The Association, by and through its Board of Directors, hereby proposes the amendment of the second paragraph only of Article IV, Section 4.6 to read as follows (all other Sections of Article IV, Section 4.6 remains unchanged):

4.6 Indemnification. (Second paragraph only shall now read as follows):

The officers, directors, and committee members shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct or bad faith. The officer and directors shall have no personal liability with respect to any contract or other commitment made or action taken in good faith on behalf of the Association (except to the extent that such officers or directors may also be members of the Association). The Association shall indemnify and forever hold each such officer, director and committee member harmless from any and all liability to others on account of any such contract, commitment or action. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any present or former officer, director, or committee members may be entitled. The Association shall, as a Common Expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

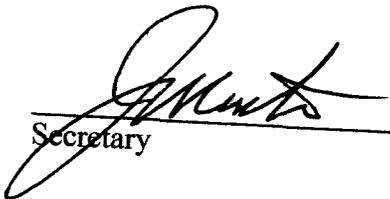
IN WITNESS WHEREOF, HIDEOUT CANYON HOME OWNERS ASSOCIATION has executed this Amendment to the Declaration as of the 17 day of December, 2007, in accordance with Article XVII, Section 17.2 of the Declaration.

**HIDEOUT CANYON HOME OWNERS ASSOCIATION**

  
\_\_\_\_\_  
President

STATE OF UTAH     )  
                              :SS  
County of Wasatch    )

On the 17<sup>TH</sup> day of December, 2007, personally appeared Robert J. Martino who, being first duly sworn, did that say that he is the President of the Association and that the foregoing instrument was signed on behalf of said Association by authority of its Board of Directors; and acknowledged said instrument to be a voluntary act and deed.

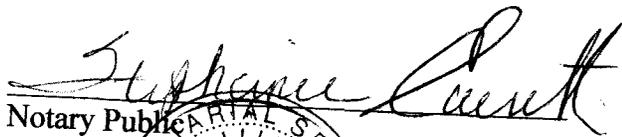
  
\_\_\_\_\_  
Secretary

STATE OF Ohio     )  
                              :SS  
County of Cuyahoga    )

On the 14 day of December, 2007, personally appeared Anthony J. Martino who, being first duly sworn, did that say that he is the Secretary of the Association and that the foregoing instrument was signed on behalf of said Association by authority of its Board of Directors; and acknowledged said instrument to be a voluntary act and deed.

  
\_\_\_\_\_  
Notary Public



  
\_\_\_\_\_  
Notary Public



**STEPHANIE EVERETT**  
Notary Public, State of Ohio  
My Commission Expires  
July 24, 2010

**EXHIBIT A  
LEGAL DESCRIPTION**

All of Lots 1 through 30, inclusive, all of Lots T-1 through T-8, inclusive, and all "Common Area" and "Limited Common Area", inclusive, Hideout Canyon - Phase 1 - First Residential Plat, according to the official plat thereof, recorded June 27, 2005, as Entry No. 284926 in Book 764 at Page No. 424 of the official records, in the Office of the Wasatch County Recorder, State of Utah.

OHK-1001 through OHK-1030 and

Wasatch County Tax Serial Nos.:

OHK-10T1 through OHK-10T8.

All of Lots 31, 32, 33, 34 and 35, and all "Common Area" and "Limited Common Area", inclusive, Hideout Canyon Phase 1 - Pod 4 Residential Plat, according to the official plat thereof, recorded September 12, 2005, as Entry No. 288568 in Book 785 at Page No. 197 of the official records, in the Office of the Wasatch County Recorder, State of Utah.

Wasatch County Tax Serial Nos.: -OHK-1031, OHK-1032, OHK-1033, OHK-1034 and OHK-1035.

All of Lots C1, C2, C3, C4 and C5, Hideout Canyon Commercial Phase, according to the official plat thereof, recorded May 27, 2005, as Entry No. 283647 in Book 757 at Page No. 509 of the official records, in title Office of the Wasatch County Recorder, State of Utah.

Wasatch County Tax Serial Nos.: OHK-00C1, OHK.-00C2, OHK-00C3, OHK-00C4 and OHK-00C5.

**EXHIBIT "B"**

All of the following described property, or any division of, or new mapping thereof:

The following described real property located in Wasatch County, State of Utah, together with all rights appurtenant thereto:

~~Tract~~ No. 1:

Those portions of Government lots 5 and 6; the West one-half of the Southeast quarter; and the East one-half of the Southwest quarter of Section 17, Township 2 South, Range 5 East, Salt Lake Base and Meridian; lying Southerly and Westerly of the Southwesterly right of way line of the New State Highway 189, as set forth on the Right of Way Plans of the Utah Department of Transportation, Project No. NF61(3).

EXCEPTING THEREFROM the following described Parcel:

A Parcel of land in said East one-half of me Southwest quarter and the Southwest quarter of the Southeast quarter of Section 17, more particularly described as follows:

Point of beginning lies South 88 degrees 32 minutes 14 seconds West 2400.00 feet along Section line from the Northeast corner of Section 20, Township 2 South, Range 5 East, said point has U.S.C. and G.S. plane grid coordinates North 839,790.42 feet and East 2,026,661.29 feet; thence South 88 degrees 32 minutes 14 seconds West 1589.7 feet along said Section line; thence North 00 degrees 28 minutes 53 seconds East 2666.2 feet along the West line of said East half of the Southwest quarter of Section 17; thence North 89 degrees 17 minutes 52 seconds East 500.00 feet along the North property line; thence South 22 degrees 04 minutes 00 seconds East 2839.7 feet to the point of beginning.

Tract No. 2:

Those portions of the Northeast quarter of Section 20, Township 2 South, Range 5 East, Salt Lake Base and Meridian lying Southerly and Westerly of the Southwesterly right of way line of me New State Highway 189, as set forth on the Right of Way Plans of the Utah Department of Transportation, Project No. NF-61(3).

**EXHIBIT B CONTINUED**

EXCEPTING THEREFROM the following described Parcel:

A Parcel of land in said West one-half of the Northeast quarter of Section 20, more particularly described as follows:

Point of beginning lies South 88 degrees 32 minutes 14 seconds West 2400.00 feet along the Section line from the Northeast corner of Section 20, Township 2 South, Range 5 East, said point has U.S.C. and G.S. plane grid coordinates North 839,790.42 feet and East 2,026,661.29 feet; thence South 22 degrees 04 minutes 00 seconds East 2813.20 feet; thence South 88 degrees 45 minutes 02 seconds West 1290.20 feet along the South line of the Northeast quarter of said Section 20; thence North 00 degrees 44 minutes 35' seconds West 2628.70 feet along the West line of the Northeast quarter of Section 20; thence North 88 degrees 32 minutes 14 seconds East 267.20 feet along said Section line to the point of beginning.

Tract No. 3:

Those portions of Government lot 2 and the Southeast quarter of the Northwest quarter of Section 21, Township 2 South, Range 5 East, Salt Lake Base and Meridian, lying Southerly and Westerly of the Southwesterly right of way line of the New State Highway 189, as set forth on the Right of Way Plans of the Utah Department of Transportation, Project No. NF-61(3).

EXCEPTING THEREFROM any portions lying within I.X.L. No. 3 Patented Lode Mining Claim

M.S. 5554.

LESS AND EXCLUDING FROM ALL OF THE ABOVE:

All of Lots 1 through 30, inclusive, all of Lots T-1 through T-8 inclusive, and all "Common Area" and "Limited Common Area", inclusive, Hideout Canyon - Phase 1 - First Residential Plat, according to the official plat thereof, recorded June 27, 2005, as Entry No. 284926 in Book 764 at Page No. 424 of the official records, in the Office of the Wasatch County Recorder, State of Utah.

All of Lots 31, 32, 33, 34 and 35 and all "Common Area" and "Limited Common Area," inclusive, Hideout Canyon Phase 1 - Pod 4 Residential Plat, according to the official plat thereof, recorded September 12, 2005, as Entry No. 288568 in Book 785 at Page No. 197 of the official records, in the Office of the Wasatch County Recorder, State of Utah.

All of Lots C1, C2, C3, C4 and C5, Hideout Canyon Commercial Phase, according to the official plat thereof, recorded May 27, 2005, as Entry No. 283647 in Book 757 at Page No. 509 of the official records, in the Office of the Wasatch County Recorder, State of Utah.

(2) Any real property now owned or hereafter acquired by Declarant within one (1) mile of the perimeter boundary of the above described property. Such property, if not now owned, must be acquired within ten (10) years of the date of recording of these restrictions.

After Recording Return To:  
**Hideout Canyon Homeowners Association**  
P.O. Box 2080  
Park City, Utah 84060

Ent 330387 Bk 957 Pg 1457-1462  
Date: 04-JAN-2008 11:26AM  
Fee: \$80.00 Check Filed By: JP  
ELIZABETH PALMIER, Recorder  
WASATCH COUNTY CORPORATION  
For: MUSTANG DEVELOPMENT

**SIXTH AMENDMENT TO  
THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR HIDEOUT CANYON**

**This Amendment to the Declaration of Covenants, Conditions and Restrictions of HIDEOUT CANYON (the "Declaration") that established the Hideout Canyon Association (the "Association") is made on the date evidenced below by the Mustang Development, LLC, a Utah limited liability company ("Declarant").**

**RECITALS**

- A. Certain real property in Wasatch County, Utah, known as Hideout Canyon were subjected to certain covenants, conditions, and restrictions pursuant to a Declaration dated October 6, 2005 and recorded as Entry No. 290025, in Book 792 at Page 493 in the Recorder's Office for Wasatch County, Utah;
- B. This amendment shall be binding against all of the property described in the Declaration and any annexation, expansion or supplement thereto. Namely, all of Hideout Canyon, more particularly described in the attached Exhibits "A" and "B."
- C. This Amendment has been consented to and approved by the affirmative vote or written consent, or any combination thereof, of Voting Members representing seventy-five percent (75%) of each class of Members, said consents are on record with the Association.
- D. Pursuant to Article XVII, Section 17.2 of the Declaration, the necessary approvals to amend the Declaration were duly received to adopt and record this Amendment.

**EXHIBIT B CONTINUED**

EXCEPTING THEREFROM the following described Parcel:

A Parcel of land in said West one-half of the Northeast quarter of Section 20, more particularly described as follows:

Point of beginning lies South 88 degrees 32 minutes 14 seconds West 2400.00 feet along the Section line from the Northeast corner of Section 20, Township 2 South, Range 5 East, said point has U.S.C. and G.S. plane grid coordinates North 839,790.42 feet and East 2,026,661.29 feet; thence South 22 degrees 04 minutes 00 seconds East 2813.20 feet; thence South 88 degrees 45 minutes 02 seconds West 1290.20 feet along the South line of the Northeast quarter of said Section 20; thence North 00 degrees 44 minutes 35' seconds West 2628.70 feet along the West line of the Northeast quarter of Section 20; thence North 88 degrees 32 minutes 14 seconds East 267.20 feet along said Section line to the point of beginning.

Tract No. 3:

Those portions of Government lot 2 and the Southeast quarter of the Northwest quarter of Section 21, Township 2 South, Range 5 East, Salt Lake Base and Meridian, lying Southerly and Westerly of the Southwesterly right of way line of the New State Highway 189, as set forth on the Right of Way Plans of the Utah Department of Transportation, Project No. NF-61(3).

EXCEPTING THEREFROM any portions lying within I.X.L. No. 3 Patented Lode Mining Claim

M.S. 5554.

LESS AND EXCLUDING FROM ALL OF THE ABOVE:

All of Lots 1 through 30, inclusive, all of Lots T-1 through T-8 inclusive, and all "Common Area" and "Limited Common Area", inclusive, Hideout Canyon - Phase 1 - First Residential Plat, according to the official plat thereof, recorded June 27, 2005, as Entry No. 284926 in Book 764 at Page No. 424 of the official records, in the Office of the Wasatch County Recorder, State of Utah.

All of Lots 31, 32, 33, 34 and 35 and all "Common Area" and "Limited Common Area," inclusive, Hideout Canyon Phase 1 - Pod 4 Residential Plat, according to the official plat thereof, recorded September 12, 2005, as Entry No. 288568 in Book 785 at Page No. 197 of the official records, in the Office of the Wasatch County Recorder, State of Utah.

All of Lots C1, C2, C3, C4 and C5, Hideout Canyon Commercial Phase, according to the official plat thereof, recorded May 27, 2005, as Entry No. 283647 in Book 757 at Page No. 509 of the official records, in the Office of the Wasatch County Recorder, State of Utah.

(2) Any real property now owned or hereafter acquired by Declarant within one (1) mile of the perimeter boundary of the above described property. Such property, if not now owned, must be acquired within ten (10) years of the date of recording of these restrictions.

The Association, by and through its Board of Directors, hereby proposes the amendment of Article XVI, Section 16.1 to add the following language:

16.1 Agreement to Avoid Costs of Litigation and to Limit Right to Litigate Disputes.

The Association, Declarant, Owners, all Persons subject to this Declaration, and any Person not otherwise subject to this Declaration who agrees to submit to this Article (collectively "Bound Parties"), agree to encourage the amicable resolution of disputes involving the Properties, and to avoid the emotional and financial cost of litigation if at all possible. Accordingly, each Bound Party covenants and agrees that all claims, grievances or disputes between such Bound Party and any other Bound Party involving the Properties, including without limitation, claims, grievances or disputes arising out of or relating to the interpretation, application or enforcement of this Declaration, the By-Laws, the Association rules, the Articles of Incorporation, or claims alleging that Declarant or its agents, consultants, contractors or subcontractors were negligent in the planning, design, engineering, grading, construction or any other claim against Declarant (collectively "Claim"), except those claims authorized in Section 16.2, shall be subject to the procedures set forth in Section 16.3.

IN WITNESS WHEREOF, HIDEOUT CANYON HOME OWNERS ASSOCIATION has executed this Amendment to the Declaration as of the 17 day of December, 2007, in accordance with Article XVII, Section 17.2 of the Declaration.

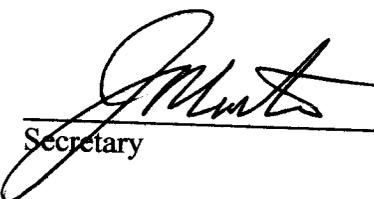
**HIDEOUT CANYON HOME OWNERS ASSOCIATION**

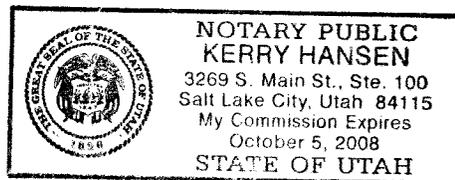
  
\_\_\_\_\_  
President

STATE OF UTAH    )  
                              :SS  
County of Wasatch    )

On the 17<sup>th</sup> day of December, 2007, personally appeared Robert J. Martino who, being first duly sworn, did that say that he is the President of the Association and that the foregoing instrument was signed on behalf of said Association by authority of its Board of Directors; and acknowledged said instrument to be a voluntary act and deed.

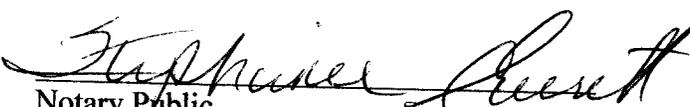
  
\_\_\_\_\_  
Notary Public

  
\_\_\_\_\_  
Secretary



STATE OF Ohio                    )  
  :SS  
County of Cuyahoga            )

On the 12 day of December, 2007, personally appeared Anthony J. Martino who, being first duly sworn, did that say that he is the Secretary of the Association and that the foregoing instrument was signed on behalf of said Association by authority of its Board of Directors; and acknowledged said instrument to be a voluntary act and deed.

  
\_\_\_\_\_  
Notary Public

**EXHIBIT A  
LEGAL DESCRIPTION**

All of Lots 1 through 30, inclusive, all of Lots T-1 through T-8, inclusive, and all "Common Area" and "Limited Common Area", inclusive, Hideout Canyon - Phase 1 - First Residential Plat, according to the official plat thereof, recorded June 27, 2005, as Entry No. 284926 in Book 764 at Page No. 424 of the official records, in the Office of the Wasatch County Recorder, State of Utah.

OHK-1001 through OHK-1030 and

Wasatch County Tax Serial Nos.:

OHK-10T1 through OHK-10T8.

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Wasatch County Tax Serial Nos.: OHK-1031, OHK-1032, OHK-1033, OHK-1034 and OHK-1035.

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Wasatch County Tax Serial Nos.: OHK-00C1, OHK.-00C2, OHK-00C3, OHK-00C4 and OHK-00C5.

**EXHIBIT "B"**

All of the following described property, or any division of, or new mapping thereof:

The following described real property located in Wasatch County, State of Utah, together with all rights appurtenant thereto:

Tract No. 1:

Those portions of Government lots 5 and 6; the West one-half of the Southeast quarter; and the East one-half of the Southwest quarter of Section 17, Township 2 South, Range 5 East, Salt Lake Base and Meridian; lying Southerly and Westerly of the Southwesterly right of way line of the New State Highway 189, as set forth on the Right of Way Plans of the Utah Department of Transportation, Project No. NF61(3).

EXCEPTING THEREFROM the following described Parcel:

A Parcel of land in said East one-half of the Southwest quarter and the Southwest quarter of the Southeast quarter of Section 17, more particularly described as follows:

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After Recording Return To:  
**Hideout Canyon Homeowners Association**  
P.O. Box 2080  
Park City, Utah 84060

Ent 330388 Bk 957 Pg 1463-1468  
Date: 04-JAN-2008 11:27AM  
Fee: \$80.00 Check Filed By: JP  
ELIZABETH PALMIER, Recorder  
WASATCH COUNTY CORPORATION  
For: MUSTANG DEVELOPMENT

**SEVENTH AMENDMENT TO  
THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR HIDEOUT CANYON**

**This Amendment to the Declaration of Covenants, Conditions and Restrictions of HIDEOUT CANYON (the "Declaration") that established the Hideout Canyon Association (the "Association") is made on the date evidenced below by the Mustang Development, LLC, a Utah limited liability company ("Declarant").**

**RECITALS**

A. Certain real property in Wasatch County, Utah, known as Hideout Canyon were subjected to certain covenants, conditions, and restrictions pursuant to a Declaration dated October 6, 2005 and recorded as Entry No. 290025, in Book 792 at Page 493 in the Recorder's Office for Wasatch County, Utah;

B. This amendment shall be binding against all of the property described in the Declaration and any annexation, expansion or supplement thereto. Namely, all of Hideout Canyon, more particularly described in the attached Exhibits "A" and "B."

C. This Amendment has been consented to and approved by the affirmative vote or written consent, or any combination thereof, of Voting Members representing seventy-five percent (75%) of each class of Members, said consents are on record with the Association.

D. Pursuant to Article XVII, Section 17.2 of the Declaration, the necessary approvals to amend the Declaration were duly received to adopt and record this Amendment.

E. This Amendment eliminates the requirement that this Declaration be amended only by the affirmative vote or written consent, or any combination thereof, of Voting Members representing 75% of each class of Members. This Amendment bundles all owners, including the Declarant's voting rights, into the same category. In short, this Amendment requires that 75% of all outstanding votes, including those of the Declarant, are necessary to make amendments.

The Association, by and through its Board of Directors, hereby proposes the amendment of Article XVII, Section 17.2(b) as follows:

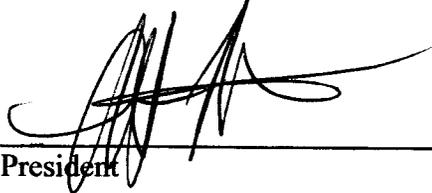
17.2(b) By owners.

Unless the Declarant has the right to amend this Declaration in accordance with Section 17.2(a), this Declaration may be amended only by the affirmative vote or written consent, or any combination thereof, of Voting Members representing 75% of all Association Members.

In addition, the approval requirements set forth in Article XIV hereof shall be met if applicable. Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

IN WITNESS WHEREOF, HIDEOUT CANYON HOME OWNERS ASSOCIATION has executed this Amendment to the Declaration as of the 17 day of December, 2007, in accordance with Article XVII, Section 17.2 of the Declaration.

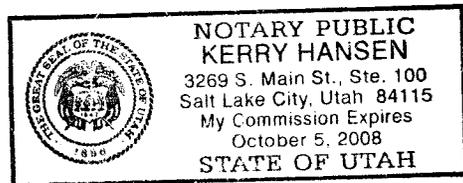
**HIDEOUT CANYON HOME OWNERS ASSOCIATION**

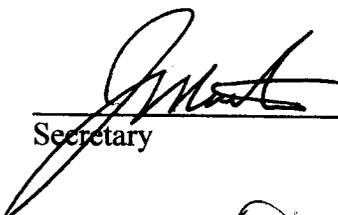
  
\_\_\_\_\_  
President

STATE OF UTAH    )  
                          :SS  
County of Wasatch    )

On the \_\_\_\_\_ day of December, 2007, personally appeared Robert J. Martino who, being first duly sworn, did that say that he is the President of the Association and that the foregoing instrument was signed on behalf of said Association by authority of its Board of Directors; and acknowledged said instrument to be a voluntary act and deed.

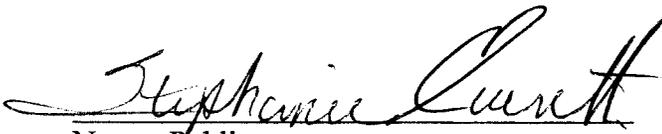
  
\_\_\_\_\_  
Notary Public



  
\_\_\_\_\_  
Secretary

STATE OF Ohio                                    )  
  :SS  
County of Cuyahoga                            )

On the 14 day of December, 2007, personally appeared Anthony J. Martino who, being first duly sworn, did that say that he is the Secretary of the Association and that the foregoing instrument was signed on behalf of said Association by authority of its Board of Directors; and acknowledged said instrument to be a voluntary act and deed.

  
\_\_\_\_\_  
Notary Public



**STEPHANIE EVERETT**  
Notary Public, State of Ohio  
My Commission Expires  
July 24, 2010

**EXHIBIT A  
LEGAL DESCRIPTION**

All of Lots 1 through 30, inclusive, all of Lots T-1 through T-8, inclusive, and all "Common Area" and "Limited Common Area", inclusive, Hideout Canyon - Phase 1 - First Residential Plat, according to the official plat thereof, recorded June 27, 2005, as Entry No. 284926 in Book 764 at Page No. 424 of the official records, in the Office of the Wasatch County Recorder, State of Utah.

Wasatch County Tax Serial Nos.:

OHK-1001 through OHK-1030 and

OHK-10T1 through OHK-10T8.

All of Lots 31, 32, 33, 34 and 35, and all "Common Area" and "Limited Common Area", inclusive, Hideout Canyon Phase 1 - Pod 4 Residential Plat, according to the official plat thereof, recorded September 12, 2005, as Entry No. 288568 in Book 785 at Page No. 197 of the official records, in the Office of the Wasatch County Recorder, State of Utah.

Wasatch County Tax Serial Nos.: -OHK-1031, OHK-1032, OHK-1033, OHK-1034 and OHK-1035.

All of Lots C1, C2, C3, C4 and C5, Hideout Canyon Commercial Phase, according to the official plat thereof, recorded May 27, 2005, as Entry No. 283647 in Book 757 at Page No. 509 of the official records, in title Office of the Wasatch County Recorder, State of Utah.

Wasatch County Tax Serial Nos.: OHK-00C1, OHK.-00C2, OHK-00C3, OHK-00C4 and OHK-00C5.

**EXHIBIT "B"**

All of the following described property, or any division of, or new mapping thereof:

The following described real property located in Wasatch County, State of Utah, together with all rights appurtenant thereto:

Tract No. 1:

Those portions of Government lots 5 and 6; the West one-half of the Southeast quarter; and the East one-half of the Southwest quarter of Section 17, Township 2 South, Range 5 East, Salt Lake Base and Meridian; lying Southerly and Westerly of the Southwesterly right of way line of the New State Highway 189, as set forth on the Right of Way Plans of the Utah Department of Transportation, Project No. NF61(3).

EXCEPTING THEREFROM the following described Parcel:

A Parcel of land in said East one-half of me Southwest quarter and the Southwest quarter of the Southeast quarter of Section 17, more particularly described as follows:

Point of beginning lies South 88 degrees 32 minutes 14 seconds West 2400.00 feet along Section line from the Northeast corner of Section 20, Township 2 South, Range 5 East, said point has U.S.C. and G.S. plane grid coordinates North 839,790.42 feet and East 2,026,661.29 feet; thence South 88 degrees 32 minutes 14 seconds West 1589.7 feet along said Section line; thence North 00 degrees 28 minutes 53 seconds East 2666.2 feet along the West line of said East half of the Southwest quarter of Section 17; thence North 89 degrees 17 minutes 52 seconds East 500.00 feet along the North property line; thence South 22 degrees 04 minutes 00 seconds East 2839.7 feet to the point of beginning.

Tract No. 2:

Those portions of the Northeast quarter of Section 20, Township 2 South, Range 5 East, Salt Lake Base and Meridian lying Southerly and Westerly of the Southwesterly right of way line of me New State Highway 189, as set forth on the Right of Way Plans of the Utah Department of Transportation, Project No. NF-61(3).

**EXHIBIT B CONTINUED**

EXCEPTING THEREFROM the following described Parcel:

A Parcel of land in said West one-half of the Northeast quarter of Section 20, more particularly described as follows:

Point of beginning lies South 88 degrees 32 minutes 14 seconds West 2400.00 feet along the Section line from the Northeast corner of Section 20, Township 2 South, Range 5 East, said point has U.S.C. and G.S. plane grid coordinates North 839,790.42 feet and East 2,026,661.29 feet; thence South 22 degrees 04 minutes 00 seconds East 2813.20 feet; thence South 88 degrees 45 minutes 02 seconds West 1290.20 feet along the South line of the Northeast quarter of said Section 20; thence North 00 degrees 44 minutes 35' seconds West 2628.70 feet along the West line of the Northeast quarter of Section 20; thence North 88 degrees 32 minutes 14 seconds East 267.20 feet along said Section line to the point of beginning.

Tract No. 3:

Those portions of Government lot 2 and the Southeast quarter of the Northwest quarter of Section 21, Township 2 South, Range 5 East, Salt Lake Base and Meridian, lying Southerly and Westerly of the Southwesterly right of way line of the New State Highway 189, as set forth on the Right of Way Plans of the Utah Department of Transportation, Project No. NF-61(3).

EXCEPTING THEREFROM any portions lying within I.X.L. No. 3 Patented Lode Mining Claim

M.S. 5554.

LESS AND EXCLUDING FROM ALL OF THE ABOVE:

All of Lots 1 through 30, inclusive, all of Lots T-1 through T-8 inclusive, and all "Common Area" and "Limited Common Area", inclusive, Hideout Canyon - Phase 1 - First Residential Plat, according to the official plat thereof, recorded June 27, 2005, as Entry No. 284926 in Book 764 at Page No. 424 of the official records, in the Office of the Wasatch County Recorder, State of Utah.

All of Lots 31, 32, 33, 34 and 35 and all "Common Area" and "Limited Common Area," inclusive, Hideout Canyon Phase 1 - Pod 4 Residential Plat, according to the official plat thereof, recorded September 12, 2005, as Entry No. 288568 in Book 785 at Page No. 197 of the official records, in the Office of the Wasatch County Recorder, State of Utah.

All of Lots C1, C2, C3, C4 and C5, Hideout Canyon Commercial Phase, according to the official plat thereof, recorded May 27, 2005, as Entry No. 283647 in Book 757 at Page No. 509 of the official records, in the Office of the Wasatch County Recorder, State of Utah.

(2) Any real property now owned or hereafter acquired by Declarant within one (1) mile of the perimeter boundary of the above described property. Such property, if not now owned, must be acquired within ten (10) years of the date of recording of these restrictions.

After Recording Return To:  
Mustang Development, LLC  
1741 Sidewinder Dr., Suite 100  
Park City, Utah 84060

Ent 343527 Bk 980 Pg 1113-1117  
Date: 09-JAN-2009 11:45AM  
Fee: \$72.00 Check Filed By: MG  
ELIZABETH PALMIER, Recorder  
WASATCH COUNTY CORPORATION  
For: HIGH COUNTRY TITLE

**EIGHTH AMENDMENT TO  
THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR  
HIDEOUT CANYON**

This Amendment to the Declaration of Covenants, Conditions and Restrictions of HIDEOUT CANYON (the "Declaration") that established the Hideout Canyon Association (the "Association") is made on the date evidenced below by the Mustang Development, LLC, a Utah limited liability company ("Declarant").

**RECITALS**

- A. Certain real property in Wasatch County, Utah, known as Hideout Canyon were subjected to certain covenants, conditions, and restrictions pursuant to a Declaration dated October 6, 2005 and recorded as Entry No. 290025, in Book 792 at Page 493 in the Recorder's Office for Wasatch County, Utah;
- B. These amendments shall be binding against all of the property described in the Declaration and any annexation, expansion or supplement thereto. Namely, all of Hideout Canyon, more particularly described in the attached Exhibits "A" and "B";
- C. These amendments are to help fund the Association's operations and to more fairly distribute expenses that benefit fewer than all Owners;
- D. These Amendments have been consented to and approved by the affirmative vote or written consent, or any combination thereof, of Voting Members representing seventy-five percent (75%) of all outstanding votes;
- E. Pursuant to Article XVII, Section 17.2 of the Declaration, the necessary approvals to amend the Declaration were duly received to adopt and record these Amendments.

NOW, THEREFORE, the Association, by and through its Board of Directors, hereby amends Article X, by adding Section 10.12 to the Declaration, to read as follows:

Section 10.12 Transfer Fee. The Board shall be authorized to charge transfer fees on sales of Units in order to fund the operation of the Association, its amenities, including the Outlaw Golf Club, and other organizations, including all associated activities, services, programs, duties and obligations.

Upon conveyance of a Unit or property by a party other than the Declarant, each new purchaser, unless negotiated differently between seller and purchaser, shall be obligated to pay a transfer fee in an amount equal to one percent (1%) of the Contract Sales Price of the Unit. The amount of the transfer fee shall be distributed equally between the Association and the Outlaw Golf Club. For the purpose of determining the amount of the transfer fee, the Contract Sales Price shall be the total cost to the purchaser of the Unit per the contract purchase agreement.

All transfer fees shall be paid by the purchaser of the Unit or property, unless otherwise negotiated differently between purchaser and Seller, at the closing of the transfer and shall be a continuing lien upon each Unit or property until paid and may be collected by the Association by any means available at law or in equity.

Notwithstanding the above, this Section 10.12 shall not apply in the following instances:

- (a) Conveyance of a Unit or property from Declarant to Retail Owner;
- (b) Conveyance of a Unit or property to Declarant;
- (c) A bona fide transfer of a Unit or property to any institution due to the foreclosure of a loan;
- (d) Any conveyance of a Unit or property from any current Retail Owner who is classified as such as of November 1, 2008.

This Amendment shall become effective upon being recorded with the county recorder.

IN WITNESS WHEREOF, HIDEOUT CANYON HOME OWNERS ASSOCIATION has executed these Amendments to the Declaration as of the 18<sup>th</sup> day of ~~November~~, 2008, in accordance with Article XVII, Section 17.2 of the Declaration. December

HIDEOUT CANYON HOME OWNERS ASSOCIATION

\_\_\_\_\_  
President

STATE OF UTAH            )  
  :SS  
COUNTY OF WASATCH    )

On the 18<sup>TH</sup> day of ~~November~~ December, 2008, personally appeared ROBERT J. MARTINO and JEIS who, being first duly sworn, did that say that they are the President and Secretary of the Association and that the foregoing instrument was signed on behalf of said Association by authority of its Board of Directors; and each acknowledged said instrument to be their voluntary act and deed.

Jeffrey G. McCluskey  
Notary Public



**EXHIBIT A  
LEGAL DESCRIPTION**

All of Lots 1 through 30, inclusive, all of Lots T-1 through T-8, inclusive, and all "Common Area" and "Limited Common Area", inclusive, Hideout Canyon - Phase 1 - First Residential Plat, according to the official plat thereof, recorded June 27, 2005, as Entry No. 284926 in Book 764 at Page No. 424 of the official records, in the Office of the Wasatch County Recorder, State of Utah.

Wasatch County Tax Serial Nos.: OHK-1001 through OHK-1030 and OHK-10T1 through OHK-10T8.

\* All of Lots 31, 32, 33, 34 and 35, and all "Common Area" and "Limited Common Area", inclusive, Hideout Canyon Phase 1 - Pod 4 Residential Plat, according to the official plat thereof, recorded September 12, 2005, as Entry No. 288568 in Book 785 at Page No. 197 of the official records, in the Office of the Wasatch County Recorder, State of Utah.

Wasatch County Tax Serial Nos: OHK-1031, OHK-1032, OHK-1033, OHK-1034 and OHK-1035.

\* All of Lots C1, C2, C3, C4 and C5, Hideout Canyon Commercial Phase, according to the official plat thereof, recorded May 27, 2005, as Entry No. 283647 in Book 757 at Page No. 509 of the official records, in title Office of the Wasatch County Recorder, State of Utah.

Wasatch County Tax Serial Nos.: OHK-00C1, OHK.-00C2, OHK-00C3, OHK-00C4 and OHK-00C5.

*Take out pod 5*

**EXHIBIT "B"**

All of the following described property, or any division of, or new mapping thereof:

The following described real property located in Wasatch County, State of Utah, together with all rights appurtenant thereto:

Tract No. 1:

Those portions of Government lots 5 and 6; the West one-half of the Southeast quarter; and the East one-half of the Southwest quarter of Section 17, Township 2 South, Range 5 East, Salt Lake Base and Meridian; lying Southerly and Westerly of the Southwesterly right of way line of the New State Highway 189, as set forth on the Right of Way Plans of the Utah Department of Transportation, Project No. NF61 (3).

WASATCH COUNTY TAX SERIAL No. OHI-0020.

EXCEPTING THEREFROM the following described Parcel:

A Parcel of land in said East one-half of the Southwest quarter and the Southwest quarter of the Southeast quarter of Section 17, more particularly described as follows:

Point of beginning lies South 88 degrees 32 minutes 14 seconds West 2400.00 feet along Section line from the Northeast corner of Section 20, Township 2 South, Range 5 East, said point has U.S.C. and G.S. plane grid coordinates North 839,790.42 feet and East 2,026,661.29 feet; thence South 88 degrees 32 minutes 14 seconds West 1589.7 feet along said Section line; thence North 00 degrees 28 minutes 53 seconds East 2666.2 feet along the West line of said East half of the Southwest quarter of Section 17; thence North 89 degrees 17 minutes 52 seconds East 500.00 feet along the North property line; thence South 22 degrees 04 minutes 00 seconds East 2839.7 feet to the point of beginning.

Tract No. 2:

Those portions of the Northeast quarter of Section 20, Township 2 South, Range 5 East, Salt Lake Base and Meridian lying Southerly and Westerly of the Southwesterly right of way line of the New State Highway 189, as set forth on the Right of Way Plans of the Utah Department of Transportation, Project No. NF-61(3).

WASATCH COUNTY TAX SERIAL No. OHI-0028, OHI-0029, OHI-0030 + OHI-0032.

EXCEPTING THEREFROM the following described Parcel:

A Parcel of land in said West one-half of the Northeast quarter of Section 20, more particularly described as follows:

Point of beginning lies South 88 degrees 32 minutes 14 seconds West 2400.00 feet along the Section line from the Northeast corner of Section 20, Township 2 South, Range 5 East, said point has U.S.C. and G.S. plane grid coordinates North 839,790.42 feet and East 2,026,661.29 feet; thence South 22 degrees 04 minutes 00 seconds East 2813.20 feet; thence South 88 degrees 45

minutes 02 seconds West 1290.20 feet along the South line of the Northeast quarter of said Section 20; thence North 00 degrees 44 minutes 35' seconds West 2628.70 feet along the West line of the Northeast quarter of Section 20; thence North 88 degrees 32 minutes 14 seconds East 267.20 feet along said Section line to the point of beginning.

Tract No. 3:

Ent 343527 Bk 0980 Pg 1117

Those portions of Government lot 2 and the Southeast quarter of the Northwest quarter of Section 21, Township 2 South, Range 5 East, Salt Lake Base and Meridian, lying Southerly and Westerly of the Southwesterly right of way line of the New State Highway 189, as set forth on the Right of Way Plans of the Utah Department of Transportation, Project No. NF-61(3).  
Wasatch County Tax Ser No. OHI-0033, OHI-0036, OHI-0039, OHI-0042 + OHI-0043  
EXCEPTING THEREFROM any portions lying within I.X.L. No. 3 Patented Lode Mining Claim M.S. 5554.

LESS AND EXCLUDING FROM ALL OF THE ABOVE:

All of Lots 1 through 30, inclusive, all of Lots T-1 through T-8 inclusive, and all "Common Area" and "Limited Common Area", inclusive, Hideout Canyon - Phase 1 - First Residential Plat, according to the official plat thereof, recorded June 27, 2005, as Entry No. 284926 in Book 764 at Page No. 424 of the official records, in the Office of the Wasatch County Recorder, State of Utah.

All of Lots 31, 32, 33, 34 and 35 and all "Common Area" and "Limited Common Area," inclusive, Hideout Canyon Phase 1 - Pod 4 Residential Plat, according to the official plat thereof, recorded September 12, 2005, as Entry No. 288568 in Book 785 at Page No. 197 of the official records, in the Office of the Wasatch County Recorder, State of Utah.

All of Lots C1, C2, C3, C4 and C5, Hideout Canyon Commercial Phase, according to the official plat thereof, recorded May 27, 2005, as Entry No. 283647 in Book 757 at Page No. 509 of the official records, in the Office of the Wasatch County Recorder, State of Utah.

(2) Any real property now owned or hereafter acquired by Declarant within one (1) mile of the perimeter boundary of the above described property. Such property, if not now owned, must be acquired within ten (10) years of the date of recording of these restrictions.

After Recording Return To:  
**Mustang Development, LLC**  
1741 Sidewinder Dr., Suite 100  
Park City, Utah 84060

Ent 343528 Bk 980 Pg 1118-1122  
Date: 09-JAN-2009 11:47AM  
Fee: \$72.00 Check Filed By: MG  
ELIZABETH PALMIER, Recorder  
WASATCH COUNTY CORPORATION  
For: HIGH COUNTRY TITLE

**NINTH AMENDMENT TO  
DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR  
HIDEOUT CANYON**

This Amendment to the Declaration of Covenants, Conditions, and Restrictions ("Declaration") that established the Hideout Canyon Association (the "Association") is made on the date evidenced below by Mustang Development, LLC, a Utah limited liability company (the "Declarant").

**RECITALS**

- A. Certain real property in Wasatch County, Utah, known as Hideout Canyon is subject to certain covenants, conditions, and restrictions pursuant to a Declaration dated October 6, 2005, and recorded as Document Entry No. 290025, Book 792, Page 493 in the Recorder's Office for Wasatch County, Utah;
- B. This amendment shall be binding against the property described in the Declaration and any annexation or supplements thereto, namely, those properties attached hereto as **Exhibits A and B**.
- C. This Amendment has been consented to and approved by the affirmative vote or written consent, or any combination thereof, of Voting Members representing seventy-five percent (75%) of all outstanding votes;
- D. Pursuant to Article XVII, Section 17.2 of the Declaration, the necessary approvals to amend the Declaration were duly received to adopt and record this Amendment.

NOW, THEREFORE, the Association, by and through its Board of Directors, hereby amends Article XII, Section 12.5(d) of the Declaration of Covenants, Conditions and Restrictions to read as follows (all other Sections of Article XII and Section 12.5 remain unchanged):

**ARTICLE XII**

**USE GUIDELINES AND RESTRICTIONS**

12.5(d) Animal Restrictions. No insects, reptiles, poultry or animals of any kind shall be raised, bred or kept on or within any Unit, dwelling or otherwise within the Properties, except that usual and ordinary dogs, cats, fish, birds, and other household pets (excluding without limitation, equine, bovine, sheep, swine, goats and other such animals) may be kept on or within the Units, subject to rules and regulations adopted by the Association,



**EXHIBIT A  
LEGAL DESCRIPTION**

All of Lots 1 through 30, inclusive, all of Lots T-1 through T-8, inclusive, and all "Common Area" and "Limited Common Area", inclusive, Hideout Canyon - Phase 1 - First Residential Plat, according to the official plat thereof, recorded June 27, 2005, as Entry No. 284926 in Book 764 at Page No. 424 of the official records, in the Office of the Wasatch County Recorder, State of Utah.

Wasatch County Tax Serial Nos.: OHK-1001 through OHK-1030 and OHK-10T1 through OHK-10T8.

All of Lots 31, 32, 33, 34 and 35, and all "Common Area" and "Limited Common Area", inclusive, Hideout Canyon Phase 1 - Pod 4 Residential Plat, according to the official plat thereof, recorded September 12, 2005, as Entry No. 288568 in Book 785 at Page No. 197 of the official records, in the Office of the Wasatch County Recorder, State of Utah.  
Wasatch County Tax Serial Nos: OHK-1031, OHK-1032, OHK-1033, OHK-1034 and OHK-1035.

All of Lots C1, C2, C3, C4 and C5, Hideout Canyon Commercial Phase, according to the official plat thereof, recorded May 27, 2005, as Entry No. 283647 in Book 757 at Page No. 509 of the official records, in title Office of the Wasatch County Recorder, State of Utah.

Wasatch County Tax Serial Nos.: OHK-00C1, OHK.-00C2, OHK-00C3, OHK-00C4 and OHK-00C5.

**EXHIBIT "B"**

All of the following described property, or any division of, or new mapping thereof:  
The following described real property located in Wasatch County, State of Utah, together with all rights appurtenant thereto:

Tract No. 1:

Those portions of Government lots 5 and 6; the West one-half of the Southeast quarter; and the East one-half of the Southwest quarter of Section 17, Township 2 South, Range 5 East, Salt Lake Base and Meridian; lying Southerly and Westerly of the Southwesterly right of way line of the New State Highway 189, as set forth on the Right of Way Plans of the Utah Department of Transportation, Project No. NF- 61(3).

*WASATCH COUNTY TAX SERIAL NO. OHI-0020.*

EXCEPTING THEREFROM the following described Parcel:

A Parcel of land in said East one-half of me Southwest quarter and the Southwest quarter of the Southeast quarter of Section 17, more particularly described as follows:

Point of beginning lies South 88 degrees 32 minutes 14 seconds West 2400.00 feet along Section line from the Northeast corner of Section 20, Township 2 South, Range 5 East, said point has U.S.C. and G.S. plane grid coordinates North 839,790.42 feet and East 2,026,661.29 feet; thence South 88 degrees 32 minutes 14 seconds West 1589.7 feet along said Section line; thence North 00 degrees 28 minutes 53 seconds East 2666.2 feet along the West line of said East half of the Southwest quarter of Section 17; thence North 89 degrees 17 minutes 52 seconds East 500.00 feet along the North property line; thence South 22 degrees 04 minutes 00 seconds East 2839.7 feet to the point of beginning.

Tract No. 2:

Those portions of the Northeast quarter of Section 20, Township 2 South, Range 5 East, Salt Lake Base and Meridian lying Southerly and Westerly of the Southwesterly right of way line of me New State Highway 189, as set forth on the Right of Way Plans of the Utah Department of Transportation, Project No. NF-61(3).

*WASATCH COUNTY TAX SERIAL NO'S OHI-0028, OHI-0029, OHI-0030 & OHI-0032*

EXCEPTING THEREFROM the following described Parcel:

A Parcel of land in said West one-half of the Northeast quarter of Section 20, more particularly described as follows:

Point of beginning lies South 88 degrees 32 minutes 14 seconds West 2400.00 feet along the Section line from the Northeast corner of Section 20, Township 2 South, Range 5 East, said point has U.S.C. and G.S. plane grid coordinates North 839,790.42 feet and East 2,026,661.29 feet; thence South 22 degrees 04 minutes 00 seconds East 2813.20 feet; thence South 88 degrees 45 minutes 02 seconds West 1290.20 feet along the South line of the Northeast quarter of said Section 20; thence North 00 degrees 44 minutes 35'

**EXHIBIT "B" CONTINUED**

seconds West 2628.70 feet along the West line of the Northeast quarter of Section 20; thence North 88 degrees 32 minutes 14 seconds East 267.20 feet along said Section line to the point of beginning.

Tract No. 3:

Those portions of Government lot 2 and the Southeast quarter of the Northwest quarter of Section 21, Township 2 South, Range 5 East, Salt Lake Base and Meridian, lying Southerly and Westerly of the Southwesterly right of way line of the New State Highway 189, as set forth on the Right of Way Plans of the Utah Department of Transportation, Project No. NF-61(3).

WASATCH COUNTY TAX SERIAL NO'S OHI-0033, OHI-0036, OHI-0039, OHI-0042 + OHI-0043 .

EXCEPTING THEREFROM any portions lying within I.X.L. No. 3 Patented Lode Mining Claim M.S. 5554.

**LESS AND EXCLUDING FROM ALL OF THE ABOVE:**

All of Lots 1 through 30, inclusive, all of Lots T-1 through T-8 inclusive, and all "Common Area" and "Limited Common Area", inclusive, Hideout Canyon - Phase 1 - First Residential Plat, according to the official plat thereof, recorded June 27, 2005, as Entry No. 284926 in Book 764 at Page No. 424 of the official records, in the Office of the Wasatch County Recorder, State of Utah.

All of Lots 31, 32, 33, 34 and 35 and all "Common Area" and "Limited Common Area," inclusive, Hideout Canyon Phase 1 - Pod 4 Residential Plat, according to the official plat thereof, recorded September 12, 2005, as Entry No. 288568 in Book 785 at Page No. 197 of the official records, in the Office of the Wasatch County Recorder, State of Utah.

All of Lots C1, C2, C3, C4 and C5, Hideout Canyon Commercial Phase, according to the official plat thereof, recorded May 27, 2005, as Entry No. 283647 in Book 757 at Page No. 509 of the official records, in the Office of the Wasatch County Recorder, State of Utah.

(2) Any real property now owned or hereafter acquired by Declarant within one (1) mile of the perimeter boundary of the above described property. Such property, if not now owned, must be acquired within ten (10) years of the date of recording of these restrictions.

After Recording Return To:  
Hideout Canyon Homeowners Association  
P.O. Box 2080  
Park City, UT 84060

**TENTH AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS, AND  
RESTRICTIONS FOR HIDEOUT CANYON  
AND  
THIRD AMENDMENT TO THE BY-LAWS OF HIDEOUT CANYON HOMEOWNERS  
ASSOCIATION**

**This Amendment to the Declaration of Covenants, Conditions, and Restrictions for Hideout Canyon and By-Laws of Hideout Canyon Home Owners Association is executed on the date set forth below by the Hideout Canyon Homeowners Association.**

RECITALS

A. Real property in Wasatch County, Utah, known as Hideout Canyon was subjected to covenants, conditions, and restrictions recorded October 6, 2005, as Entry No. 290025, in the Wasatch County Recorder's Office, Utah ("Declaration"). The Declaration has been amended nine times, with the amendments being recorded in the Wasatch County Recorder's Office as Entry Nos. 330382, 330383, 330384, 330385, 330386, 330387, 330388, 343527, and 343528;

B. By-Laws governing the administration and affairs of the Association were recorded with the Declaration as Exhibit "C." The By-Laws were amended twice, with the amendments being recorded in the Wasatch County Recorder's Office as Entry Nos. 330380 and 330381.

C. This amendment shall be binding against the property described in EXHIBIT A and the Declaration and By-Laws, any amendment, any annexation, or supplement thereto;

D. This amendment is intended to change the name of the Association.

E. Pursuant to Article XVII of the Declaration the undersigned officers of the Association certify that the Declaration amendments have been approved by Voting Members representing 75% of Association Members;

F. Pursuant to Article VI, Section 6.6(b) of the Bylaws the undersigned officers of the Association certify that the By-Law amendments have been approved by Voting Members representing 51% of all Voting Members;

**NOW, THEREFORE,** the Association hereby amends the Declaration and By-Laws as follows:

**Article I, Sections 1.2, 1.3, and 1.8 of the Declaration shall be amended in their entirety to read as follows:**

1.2 "Articles of Incorporation" or "Articles": The Articles of Incorporation of Community

Preservation Association, Inc., as filed with the State of Utah, Division of Corporations.

1.3 "Association": Community Preservation Association, Inc. It is intended that the Association be a Utah non-profit corporation. Failure of the Association to maintain its corporate status will not result in dissolution of the Association. The Association may renew its corporate status, reinstate its corporate status, or incorporate without Owner approval.

1.8 "By-Laws": The By-Laws of Community Preservation Association attached as Exhibit "C" and incorporated by reference, as they may be amended from time to time.

**Article III, Section 3.3(b)(ii) of the Declaration is hereby repealed and deleted from the Declaration.**

**The title of the By-Laws shall be amended to by "By-Laws of Community Preservation Association."**

**Article I, Sections 1.1 and 1.2 of the By-Laws shall be amended in their entirety to read as follows:**

1.1 Name. The name of the Association shall be Community Preservation Association ("Association").

1.2 Principal Office. The principal office of the Association shall be located in the State of Utah. The Association may have such other offices, either within or outside the State of Utah as the Board may determine or as the Association may require.

IN WITNESS WHEREOF, the president, has executed this Amendment to the Declaration as of the 19 day of MARCH, 2014.

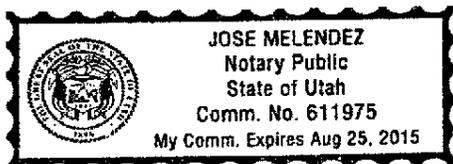
**THE HIDEOUT CANYON HOMEOWNERS ASSOCIATION**

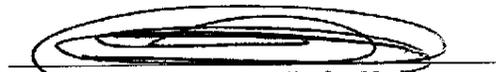


By: Robert Martino  
Its: President

STATE OF UTAH )  
County of Summit ) :SS

On the 19 day of March, 2014, personally appeared Robert Martino who, being first duly sworn, did that say that he is the president of the Association authorized to sign this instrument and that said instrument was signed and sealed on behalf of the Association, certified that the Declaration amendments were authorized by 75% of all Voting Members and the By-Law amendments were authorized by 51% of all Voting Members, and acknowledged said instrument to be his voluntary act and deed.



  
Notary Public for Utah

**EXHIBIT A  
LEGAL DESCRIPTION**

All of Lots 1 through 30, inclusive, all of Lots T-1 through T-8, inclusive, and all "Common Area" and "Limited Common Area", inclusive, Hideout Canyon - Phase 1 - First Residential Plat, according to the official plat thereof, recorded June 27, 2005, as Entry No. 284926 in Book 764 at Page No. 424 of the official records, in the Office of the Wasatch County Recorder, State of Utah.

Wasatch County Tax Serial Nos.: OHK-1001 through OHK-1030 and OHK-10T1 through OHK-10T8.

All of Lots 31, 32, 33, 34 and 35, and all "Common Area" and "Limited Common Area", inclusive, Hideout Canyon Phase 1 - Pod 4 Residential Plat, according to the official plat thereof, recorded September 12, 2005, as Entry No. 288568 in Book 785 at Page No. 197 of the official records, in the Office of the Wasatch County Recorder, State of Utah.  
Wasatch County Tax Serial Nos: OHK-1031, OHK-1032, OHK-1033, OHK-1034 and OHK-1035.

All of Lots C1, C2, C3, C4 and C5, Hideout Canyon Commercial Phase, according to the official plat thereof, recorded May 27, 2005, as Entry No. 283647 in Book 757 at Page No. 509 of the official records, in the Office of the Wasatch County Recorder, State of Utah.

Wasatch County Tax Serial Nos.: OHK-00C1, OHK-00C2, OHK-00C3, OHK-00C4 and OHK-00C5.

All of the following described property, or any division of, or new mapping thereof:  
The following described real property located in Wasatch County, State of Utah, together  
with all rights appurtenant thereto:

Tract No. 1:

Those portions of Government lots 5 and 6; the West one-half of the Southeast quarter,  
and the East one-half of the Southwest quarter of Section 17, Township 2 South, Range 5  
East, Salt Lake Base and Meridian; lying Southerly and Westerly of the Southwesterly  
right of way line of the New State Highway 189, as set forth on the Right of Way Plans  
of the Utah Department of Transportation, Project No: NF-61(3).

WASATCH COUNTY TAX SERIAL NO. DHI-0020.

EXCEPTING THEREFROM the following described Parcel:

A Parcel of land in said East one-half of the Southwest quarter and the Southwest quarter  
of the Southeast quarter of Section 17, more particularly described as follows:

Point of beginning lies South 88 degrees 32 minutes 14 seconds West 2400.00 feet along  
Section line from the Northeast corner of Section 20, Township 2 South, Range 5 East,  
said point has U.S.C. and G.S. plane grid coordinates North 839,790.42 feet and East  
2,026,661.29 feet; thence South 88 degrees 32 minutes 14 seconds West 1589.7 feet  
along said Section line; thence North 00 degrees 28 minutes 53 seconds East 2666.2 feet  
along the West line of said East half of the Southwest quarter of Section 17; thence North  
89 degrees 17 minutes 52 seconds East 500.00 feet along the North property line; thence  
South 22 degrees 04 minutes 00 seconds East 2839.7 feet to the point of beginning.

Tract No. 2:

Those portions of the Northeast quarter of Section 20, Township 2 South, Range 5 East,  
Salt Lake Base and Meridian lying Southerly and Westerly of the Southwesterly right of  
way line of the New State Highway 189, as set forth on the Right of Way Plans of the  
Utah Department of Transportation, Project No. NF-61(3).

UTAH COUNTY TAX SERIAL NO'S DHI-0028, DHI-0029, DHI-0030 & DHI-0032

EXCEPTING THEREFROM the following described Parcel:

A Parcel of land in said West one-half of the Northeast quarter of Section 20, more  
particularly described as follows:

Point of beginning lies South 88 degrees 32 minutes 14 seconds West 2400.00 feet along  
the Section line from the Northeast corner of Section 20, Township 2 South, Range 5  
East, said point has U.S.C. and G.S. plane grid coordinates North 839,790.42 feet and  
East 2,026,661.29 feet; thence South 22 degrees 04 minutes 00 seconds East 2813.20  
feet; thence South 88 degrees 45 minutes 02 seconds West 1290.20 feet along the South  
line of the Northeast quarter of said Section 20; thence North 00 degrees 44 minutes 35'

seconds West 2628.70 feet along the West line of the Northeast quarter of Section 20; thence North 88 degrees 32 minutes 14 seconds East 267.20 feet along said Section line to the point of beginning.

Tract No. 3:

Those portions of Government lot 2 and the Southeast quarter of the Northwest quarter of Section 21, Township 2 South, Range 5 East, Salt Lake Base and Meridian, lying Southerly and Westerly of the Southwesterly right of way line of the New State Highway 189, as set forth on the Right of Way Plans of the Utah Department of Transportation, Project No. NF-61(3).

4. COUNTY TAX SERIAL NO'S OHI-0033, OHI-0036, OHI-0039, OHI-0042 + OHI-0043 .

EXCEPTING THEREFROM any portions lying within L.X.L. No. 3 Patented Lode Mining Claim M.S. 5554.

(2) Any real property now owned or hereafter acquired by Declarant within one (1) mile of the perimeter boundary of the above described property. Such property, if not now owned, must be acquired within ten (10) years of the date of recording of these restrictions.

After Recording Return To:  
Community Preservation Association  
P.O. Box ~~2080~~ 681410  
Park City, UT ~~84060~~ 84068

**ELEVENTH AMENDMENT TO THE  
DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS  
FOR HIDEOUT CANYON**

**This Amendment to the Declaration of Covenants, Conditions, and Restrictions for Hideout Canyon is executed on the date set forth below by the Community Preservation Association.**

RECITALS

A. Real property in Wasatch County, Utah, known as Hideout Canyon was subjected to covenants, conditions, and restrictions recorded October 6, 2005, as Entry No. 290025, in the Wasatch County Recorder's Office, Utah ("Declaration"). The Declaration has been amended ten times, with the amendments being recorded in the Wasatch County Recorder's Office as Entry Nos. 330382, 330383, 330384, 330385, 330386, 330387, 330388, 343527, 343528, and 399413;

B. The Declaration was amended to reallocate maintenance responsibilities for Overlook Village lots January 4, 2008, as Entry No. 330382, in the Wasatch County Recorder's Office, Utah.

C. This amendment shall be binding against the property described in EXHIBIT A and the Declaration, any amendment, any annexation, or supplement thereto;

D. This amendment is intended to reallocating maintenance responsibilities for Overlook Village Lots and to address the calculation and payment of Base Assessments for Rustler.

E. Pursuant to Article XVII of the Declaration the officers and directors of the Association certify that these amendments have been approved by 75% of all classes of votes;

**NOW, THEREFORE**, the Association hereby amends the Declaration as follows:

**Article V, Section 5.1.1 shall be amended in its entirety to read as follows:**

5.1.1 Association's Responsibility for units located within Phase I, "Overlook Village" Lots 1-32, 34-39, and T1-T8. Notwithstanding anything to the contrary in the Declaration, the Association shall maintain, repair, and keep in good condition the landscaping, driveways, entry walkways, and exterior surfaces of the Units, except roofs for Phase 1 "Overlook Village" Lots 1-32, 34-39, and T1-T8 ("Overlook Village"). Exterior surfaces of the Units shall not include: exterior doors, door frames, door casings, door jambs, door hardware, thresholds, and any weatherproofing required for the exterior doors; garage doors, garage door casing and molding, garage door hardware and openers; windows, window frames, window casing, window hardware, any weatherproofing required for the windows; exterior light fixtures, exterior electrical outlets, light bulbs; HVAC installations; plumbing installations; and electrical installations. However, the Association shall be responsible for the staining of the exterior side of exterior doors and window frames (if constructed of wood). The Association shall also be responsible for



**EXHIBIT A****LEGAL DESCRIPTION**

All of Lots 1 through 30, inclusive, all of Lots T-1 through T-8, inclusive, and all "Common Area" and "Limited Common Area", inclusive, Hideout Canyon - Phase 1 - First Residential Plat, according to the official plat thereof, recorded June 27, 2005, as Entry No. 284926 in Book 764 at Page No. 424 of the official records, in the Office of the Wasatch County Recorder, State of Utah.

Wasatch County Tax Serial Nos.: OHK-1001 through OHK-1030 and OHK-10T1 through OHK-10T8.

All of Lots 31, 32, 33, 34 and 35, and all "Common Area" and "Limited Common Area", inclusive, Hideout Canyon Phase 1 - Pod 4 Residential Plat, according to the official plat thereof, recorded September 12, 2005, as Entry No. 288568 in Book 785 at Page No. 197 of the official records, in the Office of the Wasatch County Recorder, State of Utah.

Wasatch County Tax Serial Nos: OHK-1031, OHK-1032, OHK-1033, OHK-1034 and OHK-1035.

All of Lots C1, C2, C3, C4 and C5, Hideout Canyon Commercial Phase, according to the official plat thereof, recorded May 27, 2005, as Entry No. 283647 in Book 757 at Page No. 509 of the official records, in title Office of the Wasatch County Recorder, State of Utah.

Wasatch County Tax Serial Nos.: OHK-00C1, OHK-00C2, OHK-00C3, OHK-00C4 and OHK-00C5.

Those portions of Government lots 5 and 6; the West one-half of the Southeast quarter; and the East one-half of the Southwest quarter of Section 17, Township 2 South, Range 5 East, Salt Lake Base and Meridian; lying Southerly and Westerly of the Southwesterly right of way line of the New State Highway 189, as set forth on the Right of Way Plans of the Utah Department of Transportation, Project No. NF61 (3).

WASATCH COUNTY TAX SERIAL NOS: OHI-0020, OHI-0023, OHI-0024, OHI-0025,  
OHI-0020-1 AND OHI-0023-1.

Those portions of the Northeast quarter of Section 20, Township 2 South, Range 5 East, Salt Lake Base and Meridian lying Southerly and Westerly of the Southwesterly right of way line of the New State

Highway 189, as set forth on the Right of Way Plans of the Utah Department of Transportation, Project No. NF-61(3).

WASATCH COUNTY TAX SERIAL NOS: OHI-0032, OHI-0033, OHI-0028,  
OHI-0029 AND OHI-0030.

Those portions of Government lot 2 and the Southeast quarter of the Northwest quarter of Section 21, Township 2 South, Range 5 East, Salt Lake Base and Meridian, lying Southerly and Westerly of the Southwesterly right of way line of the New State Highway 189, as set forth on the Right of Way Plans of the Utah Department of Transportation, Project No. NF-61(3).

WASATCH COUNTY TAX SERIAL NO'S: OHI-0036, OHI-0029, OHI-0042 and OHI-0043.

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ALL OF LOTS IN RUSTLER A PLANNED UNIT DEVELOPMENT PLAT "A", PLAT "A" AMENDED, PLAT "B", PLAT "B" AMENDED, AND PLAT "C" AS SHOWN ON THE OFFICIAL RECORDS OF THE WASATCH COUNTY RECORDER'S OFFICE.

ORT-A001-0-021-025 through ORT-A020-0-021-025

ORT-B021-A-021-025 through ORT-B040-A-021-025

ORT-C041-0-021-025 through ORT-C070-0-021-025

WHEN RECORDED RETURN TO:  
10865 Hideout Trail  
Hideout, UT 84036

## PARTIAL ASSIGNMENT OF DECLARANT'S RIGHTS

This Partial Assignment of Declarant's Rights is made by Mustang Development, LLC, a Utah limited liability company ("Declarant") to Mountain Resort Land Company, LLC, a Utah limited liability company ("Successor Declarant").

### RECITALS

A. Mustang Development, LLC, is the "Declarant" pursuant to the Declaration of Covenants, Conditions, and Restrictions for Hideout Canyon, recorded as Entry No. 290025, Book 0792, Page 0493, *et seq.*, in the Wasatch County Recorder's Office ("Declaration").

B. Successor Declarant, holds title to the property described in Exhibit "A" ("Property"), which was originally described in Exhibits "A" or "B" to the Declaration. Successor Declarant holds title for the purpose of development and/or resale in the ordinary course of business;

C. Declarant desires to partially assign the rights reserved to it in the Declaration to Successor Declarant with respect only to the property described in Exhibit "A" to this Assignment;

NOW, THEREFORE, Declarant for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, agrees as follows:

1. Declarant assigns, transfers, and grants to the Successor Declarant any rights or interest Declarant has or hereafter may have to the Property as reserved and identified in the Declaration, as amended, supplemented, or replaced from time to time.

2. Declarant hereby warrants and represents, for the benefit of Successor Declarant, that Declarant is "Declarant", as defined in the Declaration, having full right and power to assign Declarant's rights as set forth in the Declaration; and there has been no prior assignment of Declarant's rights as set forth in the Declaration to any other person or entity.

3. Successor Declarant hereby accepts the assignment and assumes all of the rights and obligations as defined in the Declaration with respect to the Property from the date this Assignment is executed going forward into the future. Successor Declarant does not assume any prior obligations or liabilities of Declarant or obligations of Declarant related to any other portion of the property described in the Declaration, but not described in Exhibit "A" hereto, including without limitation: home warranties; express or implied warranties; defects in the design or construction of the Common Areas, Lots, or any Improvements constructed thereon;





Exhibit A  
Property Description

Part of the South half of Section 9, Section 16 and Section 17, Township 2 South, Range 5 East, Salt Lake Base and Meridian, being more particularly described as follows:

Beginning at the intersection of the South line of said Section 16 and the Northeasterly right of way line of State Highway 189, which point is 64.26 feet North 89°43'31" East from the Bureau of Land Management monument found marking the Southwest corner of said Section 16, and running thence along said Northeasterly right of way line the following six (6) courses and distances: (1) North 22°22'29" West 390.83 feet to a Utah Department of Transportation (UDOT) Highway right of way monument; (2) and North 22°27'53" West 600.31 feet to a UDOT Highway right of way monument; (3) and North 05°48'59" West 418.43 feet to a UDOT Highway right of way monument; (4) and North 22°23'59" West 1614.54 feet to a UDOT Highway right of way monument; (5) and North 24°08'39" West 413.01 feet to a UDOT Highway right of way monument; (6) and North 47°17'15" West 295.11 feet to the Easterly line of that certain Wasatch County Record of Survey No. OWC-025-017-2-0780; thence North 00°02'40" West 511.74 feet along said line; thence North 89°31'24" East 1337.82 feet along said line to the East line of said Section 17; thence North 00°17'28" West 1309.61 feet along said line to the monument found marking the Northeast corner of said Section 17; thence North 00°01'23" West 2640.24 feet along the East line of said Section 9 to a rebar and cap found marking the West Quarter corner of said Section 9; thence South 89°53'03" East 1332.24 feet along the East-West Quarter line of said Section 9 to the Northwest corner of the Northeast Quarter of the Southwest Quarter of said Section 9; thence South 00°05'32" West 1305.81 feet along the West line of the Northeast Quarter of the Southwest Quarter of said Section 9 to the Southwest corner of the Northeast Quarter of the Southwest Quarter of said Section 9; thence North 89°29'58" East 1329.66 feet along the South line of the Northeast Quarter of the Southwest Quarter of said Section 9 to the Southeast Corner of the Northeast Quarter of the Southwest Quarter of said Section 9; thence North 00°12'36" East 1291.51 feet to the center of said Section 9; thence South 89°53'03" East 2649.38 feet along the East-West Quarter line of said Section 9 to the original stone found marking the East Quarter Corner of said Section 9; thence South 00°01'41" West 2522.70 feet along the East line of said Section 9 to the original stone found marking the Southeast Corner of said Section 9; thence South 00°05'19" East 5316.41 feet along the East line of said Section 16 to the original stone found marking the Southeast Corner of said Section 16; thence South 89°43'31" West 5228.99 feet along the South line of said Section 16 to the point of beginning. Contains 976.055 acres, more or less.

Which includes Lots 1 through 47 of Soaring Hawk Subdivision Phase 1

AMENDED AND RESTATED  
MASTER DECLARATION  
OF COVENANTS, CONDITIONS, AND RESTRICTIONS  
FOR  
THE COMMUNITY PRESERVATION ASSOCIATION  
FOR HIDEOUT CANYON  
IN  
HIDEOUT, UTAH

**THIS DECLARATION INCLUDES IMPORTANT SPECIAL DECLARANT RIGHTS IN SECTION 20, IMPORTANT CONFLICT AND LITIGATION AVOIDANCE AND RESOLUTION PROVISIONS, MEDIATION AND ARBITRATION REQUIREMENTS, AND IMPORTANT WARRANTY LIMITATIONS AND DISCLAIMERS IN SECTION 21, AND IMPORTANT PRIVATE AMENITIES GOLF COURSE AND GOLF CLUB PROVISIONS IN SECTION 22.**

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AMENDED AND RETATED MASTER DECLARATION OF COVENANTS, CONDITIONS,  
AND RESTRICTIONS  
FOR

THE COMMUNITY PRESERVATION ASSOCIATION FOR HIDEOUT CANYON  
This AMENDED AND RESTATED MASTER DECLARATION OF COVENANTS,  
CONDITIONS, AND RESTRICTIONS FOR THE COMMUNITY PRESERVATION  
ASSOCIATION FOR HIDEOUT CANYON is adopted by the Community Preservation  
Association, Inc., and is effective as of the date it is recorded with the Wasatch County Recorder.

RECITALS

- A. Mustang Development, LLC, is the developer of the Hideout Canyon development located in Hideout, Utah. The Project is a residential and commercial mixed-use master-planned community which includes multiple types of housing and recreational amenities.
- B. Capitalized terms in this Master Declaration are defined in Article 1 herein or in other sections of this Master Declaration.
- C. A Declaration of Covenants, Conditions, and Restrictions for Hideout Canyon (the "Initial Declaration") was recorded on October 6, 2005, with the Wasatch County Recorder as Entry No. 290025, Book 0792, Pages 0493-0560.
- D. A Supplemental Declaration to the Declaration of Covenants, Conditions, and Restrictions for Hideout Canyon was recorded on October 9, 2007, with the Wasatch County Recorder as Entry No. 327019, Book 951, Pages 1052-1055.
- E. The First Amendment to Declaration of Covenants, Conditions, and Restrictions for Hideout Canyon was recorded on January 4, 2008, with the Wasatch County Recorder as Entry No. 330382, Book 957, Pages 1427-1432.
- F. The Second Amendment to Declaration of Covenants, Conditions, and Restrictions for Hideout Canyon was recorded on January 4, 2008, with the Wasatch County Recorder as Entry No. 330383, Book 957, Pages 1433-1438.
- G. The Third Amendment to Declaration of Covenants, Conditions, and Restrictions for Hideout Canyon was recorded on January 4, 2008, with the Wasatch County Recorder as Entry No. 330384, Book 957, Pages 1439-1444.
- H. The Fourth Amendment to Declaration of Covenants, Conditions, and Restrictions for Hideout Canyon was recorded on January 4, 2008, with the Wasatch County Recorder as Entry No. 330385, Book 957, Pages 1445-1450.
- I. The Fifth Amendment to Declaration of Covenants, Conditions, and Restrictions for Hideout Canyon was recorded on January 4, 2008, with the Wasatch County Recorder as Entry No. 330386, Book 957, Pages 1451-1456.
- J. The Sixth Amendment to Declaration of Covenants, Conditions, and Restrictions for Hideout Canyon was recorded on January 4, 2008, with the Wasatch County Recorder as Entry No. 330385, Book 957, Pages 1457-1462.
- K. The Seventh Amendment to Declaration of Covenants, Conditions, and Restrictions for Hideout Canyon was recorded on January 4, 2008, with the Wasatch County Recorder as Entry No. 330385, Book 957, Pages 1463-1468.

- L. The Eighth Amendment to Declaration of Covenants, Conditions, and Restrictions for Hideout Canyon was recorded on January 9, 2009, with the Wasatch County Recorder as Entry No. 343527, Book 980, Pages 1113-1117.
- M. The Ninth Amendment to Declaration of Covenants, Conditions, and Restrictions for Hideout Canyon was recorded on January 9, 2009, with the Wasatch County Recorder as Entry No. 343528, Book 980, Pages 1118-1122.
- N. The Tenth Amendment to Declaration of Covenants, Conditions, and Restrictions for Hideout Canyon was recorded on March 25, 2014, with the Wasatch County Recorder as Entry No. 3399413, Book 1101, Pages 1450-1454.
- O. The Eleventh Amendment to Declaration of Covenants, Conditions, and Restrictions for Hideout Canyon was recorded on June 17, 2014, with the Wasatch County Recorder as Entry No. 401844, Book 1106, Pages 1619-1622.
- P. The Second Supplemental Declaration of Covenants, Conditions, and Restrictions for Hideout Canyon for Soaring Hawk Phases 1, 2 and 4 was recorded on December 14, 2015, with the Wasatch County Recorder as Entry No. 419165, Book 1146, Pages 1149-1454.
- Q. In connection with development of the Project, the Community Preservation Association, a Utah nonprofit corporation, was formed as the master community association to own, operate, and maintain various common areas, common elements, and community improvements, and to administer and enforce the Governing Documents consistent with the Utah Community Association Act and the Utah Revised Nonprofit Corporation Act.
- R. The Seventh Amendment to the Declaration of Covenants, Conditions, and Restrictions for Hideout Canyon provides, *inter alia*, that the Initial Declaration may be amended by the affirmative vote or written consent of 75% of all outstanding votes, including those of the Declarant.
- S. The members of the Master Association and the Declarant now desire to further amend and restate the Initial Declaration, as amended to (a) conform to the changes to the Utah Community Association Act and other Utah laws; (b) more efficiently and effectively protect and enhance the value of the Project and the Property; (c) facilitate completion of the Development; and (d) clarify and define the rights of the Master Association and the Owners in and to the Project.
- T. The Terms and Conditions established herein are for the mutual benefit and burden of the Master Association, all current and future Owners, Occupants, Lenders, and others acquiring any interest in the Project and/or the Property.
- U. Portions of the Project have been, or may be, developed under a condominium form of ownership and/or as particular individual neighborhoods or neighborhood sub-associations with additional special covenants, conditions, and restrictions. The Declarant, in its discretion, may form neighborhood sub-associations to govern and enforce such additional covenants, conditions, and restrictions; however, nothing in this instrument shall require the creation of a neighborhood sub-association. The powers, authority and jurisdiction of any such sub-associations shall be subordinate to that of the Master Association.
- V. This Master Declaration shall run with the land and shall govern the Project and use of the Property and shall be binding upon the Declarant, the Master Association, all Owners, and

any future Owners of any portion of the Property, his/her heirs, successors, and assigns, and any other Person that now or hereafter has any legal, equitable, or beneficial interest in any portion of the Property. By taking title to any Unit or other property in the Project, each Owner joins in and accepts the intent, purpose, and objectives of this Master Declaration and agrees to be bound by it, and acknowledges the benefits received from its existence and the Declarant's development of the Project, and accepts the burdens that accompany these benefits.

**NOW, THEREFORE**, pursuant to the Recitals set forth above and incorporated herein, and subject to the Terms and Conditions set forth below, the Initial Declaration, as amended, is hereby amended and restated by and through this Master Declaration. This Master Declaration, along with and subject to any future amendments, replaces and supersedes the Initial Declaration, as amended, in all respects.

### ARTICLE 1 DEFINITIONS

As used herein, unless the context otherwise requires:

- 1.1 "Act" shall mean and refer to the Community Association Act codified beginning at § 57-8a-101, Utah Code Annotated ("Utah Code Ann.").
- 1.2 "Additional Covenants" shall mean and refer to any additional restrictions, conditions, or covenants imposed on a Unit or Owner as part of a Neighborhood Sub-Association. If the Additional Covenants are more restrictive than the provisions of this Master Declaration, the more restrictive provision shall control. The Master Association shall have standing and authority but not the obligation to enforce any such Additional Covenants.
- 1.3 "Allocated Interest" shall mean and refer to the voting interests in the Master Association which are allocated equally among the Units, subject to provisions in Sections 6.2(d) and 20 herein, and to each Unit's liability for the Common Expenses. Each Unit is assigned one equal vote, subject to the limitations on voting set forth in this Master Declaration and other Governing Documents.
- 1.4 "Articles" shall mean and refer to the Articles of Incorporation for the Master Association.
- 1.5 "Assessment" shall mean and refer to any monetary charge imposed or levied on a Unit or an Owner by the Master Association as provided for in this Master Declaration.
- 1.6 "Base Assessments" shall mean and refer to those Assessments levied on all Units to pay for Common Expenses for the general benefit of all Owners, more particularly described in Section 6.2 herein.
- 1.7 "Board" shall mean and refer to the Board of Directors of the Master Association.
- 1.8 "Builder" shall mean and refer to Park City Mountain Builders, LLC, and any other builders as may be designated by the Declarant.
- 1.9 "Bylaws" shall mean and refer to the Amended and Restated Bylaws of the Master Association, attached as Exhibit C, and all valid amendments and supplements thereto. No amendment to the Bylaws shall be effective until it is recorded.
- 1.10 "City" shall mean and refer to Hideout City located in Wasatch County, Utah.

- 1.11 “Common Area and Facilities” unless otherwise more specifically provided in this Master Declaration, shall mean and refer to the real and personal property for the common use and enjoyment of the Owners, and specifically shall include, but not be limited to, the following: (a) all Common Area and Facilities designated as such the Plats, including any area designated as open space; (b) all trails and pocket parks as may be developed within the Project; (c) all utility installations and all equipment connected with, or in any way related to, the furnishing of utilities for the common use of all Units, or for the common areas; (d) any fence or wall on common property; (e) any road, street, lane, alley or cul-de-sacs within the Project not dedicated to the City or property of a Neighborhood Sub-Association; and (f) all other parts of the Project necessary or convenient to its existence, maintenance, and safety, or normally in common use, reserved for the exclusive use and enjoyment of the Owners and their respective family members, tenants, guests, and invitees, and all other parts of the Project outside of the Units not dedicated to the City or the public or which are necessary or convenient to the Project’s existence, maintenance, and safety, or normally in common use. In accordance with the Plats, the Common Area and Facilities shall be owned and operated by the Master Association.
- 1.12 “Common Expenses” shall mean and refer to the actual and estimated costs for: (a) maintenance, management, operation, repair, and replacement of the Common Area and Facilities; (b) management and administration of the Master Association, including, but not limited to, compensation paid by the Master Association to managers, accountants, attorneys, consultants, and employees; (c) extermination, security, landscaping, snow removal, and other related services, to the extent such services are not expenses assessed as Specific Assessments; (d) insurance and bonds required or allowed by this Master Declaration; (e) the establishment of reserves; (f) other miscellaneous charges incurred by the Master Association as provided for or allowed in the Act or the Governing Documents; (g) all maintenance or other obligations of the Master Association for property outside of the Project; and (h) any other expenses of the Master Association arising from the operation of the Master Association and not otherwise defined or precluded by the Governing Documents or any applicable law.
- 1.13 “Community-Wide Standards” shall mean and refer to the standard of use, conduct, architecture, landscaping, and aesthetic matters generally prevailing in the Project or, at a minimum, the standards initially established by the Declarant and/or described in the Master Declaration, Design Guidelines, Rules, and Board resolutions. The Community-Wide Standards may or may not be set forth in writing.
- 1.14 “Declarant” shall mean and refer to Mustang Development, LLC, and its successors, assigns, and any related entity designated by the Declarant, in writing.
- 1.15 “Design Guidelines” shall mean and refer to the Community Preservation Association Hideout Canyon Design Review Guidelines promulgated by the Declarant and adopted by the Master Association, as they may be amended from time to time.
- 1.16 “Design Review Committee” shall mean and refer to the Design Review Committee as set forth herein.

- 1.17 “Development” shall mean and refer to the Hideout Canyon development, including all Units, Common Areas and Facilities, and other property within the Project as shown on the Plats covering the entire Property.
- 1.18 “Development Agreement” shall mean and refer to that certain Master Developer Agreement between the Declarant and the City for development of the Project, recorded with the Wasatch County Recorder on July 9, 2010, as Entry No. 360737, Book 1017, Pages 1027-1086, as it may be amended.
- 1.19 “Development Improvements” shall mean and refer to all development improvements to be installed outside of the boundaries of Units or within easements, as identified on the Plats, that are necessary to provide road access and utility service to the Units, and including other construction work required to comply with any ordinance or conditions of the City or other governmental agencies for the approval of any portion of the Development.
- 1.20 “Golf Club” shall mean and refer to Outlaw Golf Club, LLC, and its successors in interest, assigns, or transferees, which operates the golf club on the Golf Course.
- 1.21 “Golf Course” shall mean and refer to that certain real property located adjacent to, in the vicinity of, or within the Development, which is privately-owned by Mustang Development, LLC, its successors in interest or title, assigns or transferees, and operated as a golf course, and the related improvements and facilities thereon.
- 1.22 “Governing Documents” shall mean and refer to this Master Declaration, the Plats, the Articles, the Bylaws, the Design Guidelines, and the Rules, and any other written instrument by which the Declarant or Master Association may exercise power, or manage, maintain, or otherwise affect the Project.
- 1.23 “Lender” shall mean and refer to a holder of a mortgage or deed of trust on a Unit.
- 1.24 “Lot” shall mean and refer to a lot created by the Plats on which an attached or detached single-family dwelling is or will be constructed, and is included within the definition of the Unit under Section 1.41 below. The term “Lots” shall mean and refer to more than one Lot.
- 1.25 “Manager” shall mean and refer to any Person or Persons engaged by the Board to professionally manage the Master Association. The Association may engage more than one Manager. The term “Managers” shall mean and refer to more than one Manager.
- 1.26 “Master Association” shall mean and refer to the Community Preservation Association, a Utah Nonprofit Corporation, the membership of which shall include each Owner in the Project. If the Owners are ever organized as another type of entity, or if the Owners act as a group without legal organization, “Master Association,” as used in this Master Declaration, shall refer to that entity or group.
- 1.27 “Master Declaration” shall mean and refer to this Amended and Restated Declaration of Covenants, Conditions, and Restrictions for Hideout Canyon, including all attached exhibits other than any Bylaws, which are incorporated by reference, and any and all amendments to this Master Declaration.

- 1.28 “Neighborhood” shall mean and refer to any condominium development and/or any distinct neighborhood community developed within the Project. The term “Neighborhoods” shall mean and refer to more than one Neighborhood or all neighborhoods within the Project.
- 1.29 “Neighborhood Sub-Association” shall mean and refer to any community or condominium sub-association established for the governance of a particular Neighborhood within the Project, and which are subject to, and bound by, this Master Declaration.
- 1.30 “Occupant” shall mean and refer to a Person or Persons, other than an Owner, in possession of, using, occupying, or living in a Unit within the Project, including, without limitation, family members, tenants, guests, and invitees of an Owner or an Occupant.
- 1.31 “Owner” shall mean and refer to the Person or Persons who are vested with record title to a Unit, and whose interest in the Unit is held (in whole or in part) in fee simple, according to the records of the County Recorder of Wasatch County, Utah, but shall not include a trustee under a trust deed or mortgagee. The term “Owners” shall mean and refer to more than one Owner or all owners within the Project.
- 1.32 “Person” shall mean and refer to a natural individual, corporation, estate, limited liability company, partnership, trustee, association, government, governmental subdivision or agency, or any other legal entity. The term “Persons” shall mean and refer to more than one Person.
- 1.33 “Plats” shall mean and refer to the record of survey maps of the Hideout Canyon development (individually, each a “Plat”), recorded with the Wasatch County Recorder, and shall include all recorded amendments and supplements thereto.
- 1.34 “Privately-Owned Amenities” shall mean and refer to certain real property and improvements and facilities located thereon, adjacent to, in the vicinity of, or within the Development, which are privately owned and operated by any Person other than the Master Association for recreational and related purposes on a membership basis, use-fee basis, or otherwise, and includes, without limitation, the Golf Club.
- 1.35 “Project” shall mean and refer to the Hideout Canyon development and all structures and improvements thereon, including the Units and the Common Area and Facilities.
- 1.36 “Property” shall mean and refer to the property legally described in Exhibit A and all easements and rights appurtenant thereto.
- 1.37 “Rules” shall mean and refer to the rules and regulations adopted by the Master Association.
- 1.38 “Special Assessments” shall mean and refer to those Assessments levied on all Units other than the Base Assessments and Specific Assessments, more particularly described in Section 6.9 herein.
- 1.39 “Specific Assessments” shall mean and refer to those Assessments levied on one or more Units, in addition to the Base Assessments and any Special Assessments, to pay for the benefits, services, and items provided by the Master Association to the Unit, the Owner, and/or Occupants, more particularly described in Section 6.10 herein.

- 1.40 “Terms and Conditions” shall mean and refer to any one or all of the terms, covenants, rights, obligations, and restrictions set forth in the Governing Documents.
- 1.41 “Unit” shall mean and refer to a subdivided unit or condominium unit within the Development depicted as a separately identified parcel on the Plat, a survey, or condominium instrument which may be independently owned and conveyed, and is zoned or otherwise intended for development, use, and occupancy as an attached or detached single-family residence, sometimes referred to herein as a “Residential Unit” or as a commercial unit. The term “Unit” refers to land, if any, which is part of a Unit, including the lot for a detached single-family dwelling, or a commercial structure, as well as to any structures or other improvements on the Unit. In the case of a building within a condominium, or other structure containing multiple residential dwellings, each dwelling shall be deemed to be a separate Unit. The term “Unit” does not include Common Area and Facilities, common property of any Neighborhood Sub-Association, or property dedicated to the City or the public.
- In the case of a parcel or pod of vacant land, or land on which improvements are under construction, the parcel or pod shall be deemed to contain the number of Units designated for residential use for such parcel or pod in accordance with the Development Agreement and master plan for the Development, until such subdivision or Neighborhood plat or site plan is recorded on all or a portion of that parcel or pod. Thereafter, the portion encompassed by the Plat or site plan shall constitute a separate Unit or Units as determined above, and the number of Units on the remaining land, if any, shall continue to be determined in accordance with the above.
- In the case of the combination or consolidation of two or more Lots into a single Lot as may be allowed by the City, the combined Lot nevertheless shall retain the Allocated Interest of each original Lot.
- 1.42 “Water Features” shall mean and refer to any lake, pond, or stream constructed as part of the Development.

## ARTICLE 2 THE PROJECT

- 2.1 Nature of the Project. The Project is a residential and commercial mixed-use development that contains, or will contain six (6) commercial Units and up to one-thousand nine-hundred seventy-five (1,975) Residential Units, which are or will be divided into separate Neighborhoods, each distinct and unique in character, yet cohesive with all the other Neighborhoods in the Project. It includes a variety of housing types, open space, parks, trails, Water Features, roadways, and a commercial node. The commercial node is located off of Longview Drive, near the primary entrance to the Project, and includes neighborhood-type retail and office space. It is intended to primarily serve the residents of the Project but is accessible to surrounding neighborhoods within Wasatch County. The Project is not a cooperative and is not a condominium.
- 2.2 Registered Agent. The registered agent of the Master Association shall be as provided for in the Articles and supplementary filings with the Utah Division of Corporations and Commercial Code.

- 2.3 Expansion of Project. The Project may be expanded or contracted by the Declarant consistent with the Development Agreement.

### ARTICLE 3

#### DESCRIPTION AND MAINTENANCE OF THE UNITS, LIMITED COMMON AREA AND FACILITIES, AND ALLOCATED INTERESTS

##### 3.1 The Unit

- (a) The distinct Unit number that identifies the Unit on a Plat may or may not be consistent with the mailing address of the Unit.
- (b) Subject to further specification herein, and/or on the Plat or Neighborhood Sub-Association documents, each Unit generally consists of all structures on or within the boundary of the Unit, including, but not limited to, all interior and exterior walls, wall surfaces, floors, ceilings, roofs, foundations, footings, and fixtures. For attached Units, and, in all walls shared with or abutting another Unit, the Unit shall extend to the center of the wall, which shall form the boundary of the Units sharing that wall. Subject to dividing lines between Units (such dividing walls are "party structures", as defined below), any above-ground structure that extends beyond the vertical plane of the ground-level boundary of the Unit is part of the Unit if it: (i) is part of and an integral part of the Unit structure (such as bay windows, pop-outs, eaves, etc., not to include fences or other appurtenant structures that merely connect to the Unit structure); or (ii) was constructed as part of the original construction of the Unit.
- (c) All pipes, wires, conduits, chutes, flues, ducts, shafts, public utility, water or sewer lines, or any other similar fixtures lying inside the designated vertical boundaries of a Unit, shall be part of the Unit.
- (d) All exterior and interior doors, door jams, windows, window sills, window frames and all components therein, and garage doors within or on the boundary of any Unit are part of the Unit.
- (e) Party Walls. Each wall, fence, driveway, or similar structure built as part of the original construction on the Units, which serves and/or separates any two adjoining Units, shall constitute a party structure. To the extent not inconsistent with this Section, the general rules of law regarding party walls and liability for property damage due to negligence or the willful acts or omissions shall apply to such party structures. All Owners who make use of the party structure shall share the cost of reasonable repair and maintenance of such party structure equally. If a party structure is destroyed or damaged by fire or other casualty, then, to the extent such damage is not covered by insurance and repaired out of the proceeds of insurance, any Owner who has used the party structure may restore it. If other Owners subsequently use the party structure, they shall contribute to the restoration cost in equal proportions. However, such contribution will not prejudice the right to call for a larger contribution from any other user or Person under any rule of law regarding liability for negligent or willful acts or omissions. The right of contribution under this Section shall be appurtenant to the land and shall pass to such Owner's successors-in-title.

- (f) Variances between the Plats and as-built construction. The original construction shall be the controlling dimension for any Unit. The original construction shall be the first installation of foundations, framing, and wallboard. If the Board, in its sole discretion, determines that the then-current construction varies from the original as-built construction, then the Master Association, at the expense of the Master Association or the Owner, in the Board's discretion, may require that the current construction be made to comply with the original construction. In exercising its discretion to decide who pays to return an alteration/modification to the original construction, the Board shall consider: (i) whether the Owner caused the nonconforming construction; (ii) whether the Owner sought or obtained Board approval for any nonconforming construction, regardless of whether any such approval was valid or not; (iii) whether other Owners engaged in similar nonconforming construction; (iv) the overall culpability of the Owner as it relates to the nonconforming construction; and (v) the reason for the nonconforming construction.

### 3.2 Limited Common Area.

- (a) Specific Identification of Limited Common Areas. The Limited Common Area of each Unit or Units, if any, shall consist of areas identified on the Plat as Limited Common Area that are spatially associated with that particular Unit or Units.
- (b) No Severance of Limited Common Area. The right to the exclusive use of the Limited Common Area shall be appurtenant to each respective Unit or Units where so identified, and may not be severed from the ownership of the Unit.

### 3.3 Phase-Specific Common Area and Limited Common Area Allocations. Notwithstanding anything else to the contrary in this Master Declaration, the following phase-specific allocations (as such phases are defined below) of Common Area and Limited Common Area are created. All recording information is recorded in the public records of Wasatch County, Utah.

- (a) Phase 1: Phase 1 shall consist of all of: (i) the Hideout Canyon – Phase 1 – First Residential Plat, recorded June 27, 2005, as Entry No. 284926, in Book 764, at Page No. 424; (ii) Hideout Canyon Phase 1 – Pod 4 Residential Plat, recorded September 12, 2005, as Entry No. 288568, in Book 785, at Page No. 197; (iii) Hideout Canyon Phase 1 – Pod 4 Residential Plat, Amended, recorded on September 29, 2009, as Entry No. 352738, in Book 1001, at Page No. 126; (iv) Hideout Canyon Phase 1 Amended Pod 9 Residential Client, recorded on April 3, 2008, as Entry No. 334044, in Book 963, at Page 1979; and (v) Hideout Canyon Amended Phase 1 First Residential Plat, recorded on January 10, 2008, as Entry No. 330592, in Book 957, at Page 2354. In Phase 1 all driveways are Limited Common Area appurtenant to the Unit to which such driveway is spatially located and subject to the exclusive use of such appurtenant Unit. Further, all real property in Phase 1 that is not a driveway and is specifically identified as part of a Unit, or as Limited Common Area, is Common Area and Facilities, except for any road which has been dedicated as a public road.

- (b) Phases 2 and 4: Phases 2 and 4 shall consist of all of the Hideout Canyon Phases 2 and 4 Residential Plat, recorded on January 17, 2006, as Entry No. 295335, in Book 822, at Page 489. The roads known as Lasso Trail and Longview Drive, which run through Phases 2 and 4, shall be Common Area and Facilities, but only if such roads are not public roads dedicated to a municipality.
- (c) Phase 2A: Phase 2A shall consist of all of the Hideout Canyon Phase 2A Residential Plat, recorded on November 21, 2008, as Entry No. 342228, in Book 977, at Page 1669.
- (d) Phase 5: Phase 5 shall consist of all of the Hideout Canyon Phase 5 Residential Plat, recorded on April 16, 2009, as Entry No. 346911, in Book 988, at Page 1007. The roads known as Lariat Court and Longview Road, which run through Phase 5, shall be Common Area and Facilities, but only if such roads are not public roads dedicated to a municipality.
- (e) Phase 8: Phase 8 shall consist of all of the Hideout Canyon Phase 8 Residential Plat, recorded on June 5, 2009, as Entry No. 348949, in Book 993, at Page 424. (Lots 1-9 and R1-R6). In Phase 8, the private road identified as Reflection Ridge shall be Limited Common Area appurtenant to the Units in Phase 8.
- (f) Phase 8A: Phase 8A shall consist of all of the Hideout Canyon Phase 8A Residential Plat, recorded on August 25, 2015, as Entry No. 415529, in Book 1138, at Page 307. In Phase 8A, the road known as Reflection Lane shall be Limited Common Area appurtenant to the Units in Phase 8A. Further, Parcels A, B, and C shall be Common Area and Facilities.
- (g) Forevermore Phase: The Forevermore Phase shall consist of all of: (i) the Forevermore Plat A, recorded on July 20, 2012, as Entry No. 380683, in Book 1059, at Page 1458; and (ii) the Forevermore Plat A Amended, recorded on May 29, 2013, as Entry No. 390318, in Book 1082, at Page 272. Parcels identified as Open Space A and B shall be Common Area and Facilities.
- (h) Rustler Phase: The Rustler Phase shall consist of all of: (i) Rustler Plat A, recorded on October 11, 2011, as Entry No. 373003, in Book 1042, Page 1668; (ii) Rustler Plat A Amended, recorded on June 12, 2012, as Entry No. 379673, in Book 1057, Page 611; (iii) Rustler Plat B Amended, recorded on April 26, 2013, as Entry No. 389202, in Book 1079, Page 1681; (iv) Rustler Plat C, recorded on June 11, 2013, as Entry No. 390729, in Book 1083, at Page 339; (v) Rustler Plat C 1st Amended, recorded on November 23, 2015, as Entry No. 418531, in Book 1145, Page 162; (vi) Rustler Plat D, recorded on March 26, 2015, as Entry No. 410327, in Book 1125, Page 1564; and (vii) Rustler Plat B, recorded on October 17, 2012, as Entry No. 383247, in Book 1065, Page 1587. In the Rustler Court Phase, all roads, including Shortline Circle and Viewside Circle, are Common Area and Facilities if they are not public roads dedicated to a municipality.
- (i) Soaring Hawk Phase. The Soaring Hawk Phase shall consist of all of: (i) the Soaring Hawk Subdivision Phase 1 Plat, recorded September 26, 2014, as Entry No. 404842, in Book 1113, Page 1062; (ii) the Soaring Hawk Subdivision Phase 2 Plat, recorded July 16, 2015, as Entry No. 414035, in Book 1134, Page 1312; and

(iii) the Soaring Hawk Subdivision Phase 4 Plat, recorded March 25, 2015, as Entry No. 410313, in Book 1125, Page 1498. In the Soaring Hawk Phase, Soaring Hawk Lane and White Tail Court are Limited Common Area appurtenant to the Units in the Soaring Hawk Phase.

(j) Commercial Phase. The Commercial Phase shall consist of all of the Hideout Canyon Commercial Phase Plat, recorded on May 27, 2008, as Entry No. 283647, in Book 767, Page 508. All real property in the Commercial Phase that is not a driveway or specifically identified as part of a Unit, is Common Area and Facilities, except for any roadway which has been dedicated as a public road.

- 3.4 Allocated Interest of Each Unit in the Votes of the Association. The Owner of a Unit shall be entitled to vote his/her Allocated Interest for all matters related to the Association that Owners are permitted or required to vote or approve. Each Unit shall have an equal Allocated Interest. Any difference in square footage, location, size, value, or other aspect of any Unit shall not be a reason to alter or change any Allocated Interest.
- 3.5 Plats. The Plats and all dimensions, descriptions, and identification of boundaries therein shall be binding on the Project and the Master Association. If any conflict exists between the Plat and this Master Declaration, the Master Declaration shall control, except to the extent provided for on the Plats, or as otherwise provided by the application of controlling law.
- 3.6 Maintenance of Units. Unless otherwise provided in this Master Declaration or in the governing documents of a Neighborhood Sub-Association, each Owner shall be responsible for maintaining and repairing his or her Unit and all structures, driveways, parking areas, landscaping, and other improvements to the Lot in accordance with this Section and the Community-Wide Standards. If an Owner fails to maintain his/her Unit and structures, driveways, parking areas, and landscaping, the Master Association may, in its discretion, undertake such maintenance obligations and allocate the costs as a Specific Assessment.

#### ARTICLE 4 ORGANIZATION AND GOVERNANCE OF THE ASSOCIATION

- 4.1 Organization of Association. The Master Association shall serve as the organizational body for all Owners.
- 4.2 Legal Organization. The Master Association has been organized and is operating pursuant to the laws of the State of Utah as a nonprofit corporation. In the organization, reorganization, or amendment of any documents related to the legal organization of the Master Association, the terms in all such documents shall, to the extent possible under the applicable law, be consistent with the terms in this Master Declaration and the Bylaws or any lawful amendment thereto. If the legal entity should ever expire or be dissolved for any reason as required or permitted by law, in any reorganization or reinstatement of the entity, the Master Association shall adopt, to the extent possible and subject to any then-existing legal requirements, documents consistent with the terms of the Master Declaration and Bylaws.

4.3 Membership. Membership in the Master Association, at all times, shall exclusively consist of the Owners. Each Owner shall be a member of the Master Association so long as such Owner has an ownership interest in a Unit, and such membership shall automatically terminate when the Owner ceases to have an ownership interest in a Unit. Upon the transfer of an ownership interest in a Unit, the new Owner succeeding to such ownership interest shall likewise succeed to such membership in the Association. If titled ownership to a Unit is held by more than one Person, the membership appurtenant to that Unit shall be shared by all such Persons in the same proportional interest and by the same type of tenancy in which title to the Unit is held.

4.4 Availability of Documents.

- (a) The Master Association shall make available to the Owners copies of the Governing Documents and the corporate records, meeting minutes, books, and financial statements related to the operations of the Master Association consistent with the requirements of the Act and §§ 16-6a-1601 through 1603, 16-6a-1605, and 16-6a-1606 of the Utah Revised Nonprofit Corporation Act.
  - (i) The term “available” as used in Section 4.4(a) above shall mean available for inspection or copying at the Master Association’s principle place of business or the offices of the Manager within five (5) business days after receiving a proper written request, during normal business hours and under other reasonable conditions, except that annual financial statements requested by an Owner may be provided to an Owner within fifteen (15) days of receiving such request.
  - (ii) Notwithstanding anything to the contrary in this Section 4.4, the Master Association may require that the Owner strictly comply with any and all statutory provisions or other legal requirements applicable to providing this information before providing it.
  - (iii) If an Owner elects to have the Master Association produce copies of requested documents or records, the Master Association may assess the Owner reasonable copying costs consistent with § 57-8a-227(4)(b)(ii) of the Act.
- (b) Subject to any legal requirements otherwise, the Master Association shall make available to Lenders and insurers of any Lender, copies of the Governing Documents and copies of corporate records, meeting minutes, books, and financial statements related to the operations of the Master Association within thirty (30) days of receipt of a written request.
- (c) Notwithstanding anything to the contrary in this Section 4.4, the Master Association may redact from any document produced for inspection or copying any information subject to attorney-client privilege and any other information that the Management Committee, in good faith, determines would reveal sensitive personal or financial information of an Owner or agent of the Master Association, including, without limitation, bank account numbers or social security numbers.

4.5 Board of Directors. The governing body of the Master Association shall be the Board elected pursuant to the Bylaws, subject to the Declarant Rights set forth in Article 20 herein. The Board shall consist of not less than three (3), and no more than five (5), members. Except as otherwise provided in this Master Declaration, Bylaws, or the Articles, the Board, in all instances, shall act on behalf of the Master Association. Any reference to an act, right, or obligation of the Master Association in the Governing Documents may only be exerted or complied with through an action of the Board. Except as may be specifically provided in the Master Declaration, Bylaws, Articles, or by applicable law, no Owner or group of Owners other than the Board may direct the actions of the Master Association.

4.6 Board Members.

(a) Qualification.

(i) To serve on the Board, a Person must be an Owner, or the spouse of an Owner, and, if a natural individual, over the age of eighteen years old. Notwithstanding, if an Owner is a corporation, estate, limited liability company, partnership, trust, or other legal entity, the entity's officer, principle, shareholder, partner, member, manager, trustee, or beneficiary, may be a member of the Board.

(ii) As further detailed and explained in the Bylaws, and except during the Declarant Control Period as set forth in Section 20.2 herein, at least two (2) of the Board members, at all times, must have as their primary residence a Unit in the Project. The Bylaws shall provide for procedures to ensure this requirement is maintained and may include, but are not limited to, the expulsion of Board Members.

(b) Reasonable Ongoing Requirements for Board Members. The Bylaws may place reasonable obligations and requirements on existing Board Members to retain their membership on the Board, such as a requirement that a Board Member attend a specified number of meetings. The Bylaws may further provide for a procedure for removal of any Board Member who fails to comply with the reasonable requirements, which may include some action of the remaining Board Members. Any Bylaw requirements adopted pursuant to this section shall not apply to any Board Members on the Board during the term of the Board Member being served when they are adopted.

4.7 Limitation on Authority of Owners, Board Members, Officers, and the Board.

(a) Except as provided herein or in the Bylaws, the Board, any individual Owner, and any individual Board Member or Officer shall have no authority to, and may not act on behalf of, the Master Association or the Board to:

(i) amend or terminate any Governing Document;

(ii) elect or remove members of the Board;

(iii) establish or change the qualifications, powers and duties, requirements, or terms of Board Members or of the Board; or

(iv) authorize or agree to any deviation or exception from the Terms and Conditions, except as provided in this Master Declaration.

- 4.8 No Estoppel or Reliance on Actions or Authorizations Contrary to Governing Documents. No one may rely upon any authorization (from the Board or anyone else) contrary to the terms of the Governing Documents, regardless of the circumstances under which it is given, and no claim or defense of estoppel, or waiver or similar equitable or legal claim or defense may be raised by anyone related to any alleged reliance. It is the responsibility of anyone interacting with, visiting, occupying, or purchasing a Unit in the Project to verify that anything that the Master Association does, does not do, or authorizes related to the Project or the Master Association is in compliance with the terms of the Governing Documents.
- 4.9 Registration with the State. The Master Association shall be registered with the Utah Department of Commerce, in accordance with Utah Code Ann. § 57-8a-105, and shall update its registration to keep any required information current, as required by the Act.

#### ARTICLE 5

#### GENERAL RIGHTS AND RESPONSIBILITIES OF THE MASTER ASSOCIATION

- 5.1 Rights and Responsibilities of the Master Association. The Master Association shall have the following rights and responsibilities, in addition to any others set forth in the Governing Documents or provided by law.
- 5.2 Maintenance. The Master Association shall make provisions for completing all maintenance, repair, and replacement requirements and obligations of the Master Association. This shall include the right to modify, remove fixtures from, add fixtures and structures to, place signs upon, and otherwise modify the Common Area and Facilities. The Master Association shall do all such other and further acts that the Board deems necessary to preserve and protect the Common Area and Facilities and the Project, in accordance with the general purposes specified in this Master Declaration and the Community-Wide Standards. Nothing in the foregoing provisions of this Section 5.2 shall be construed to prevent the Master Association from taking on obligations of the City pursuant to a written agreement between the City and the Master Association. Notwithstanding anything in this Section 5.2 to the contrary, a Neighborhood Sub-Association shall be responsible for maintenance of the property which it owns, or which its covenants designate as being exclusively or primarily for the benefit of the Neighborhood Sub-Association's members.
- 5.3 Capital Improvements. After the Declarant Control Period, capital improvements shall be governed by and subject to the following conditions, limitations, and restrictions:
- (a) Any capital improvement to the Project that does not materially alter the nature of the Project may be authorized by the Board alone. A material alteration to the Project, for example, is the installation of a previously non-existent and materially significant fixture, or permanent removal of a materially significant fixture such as a trail, fire pit, or benches. Landscaping alterations and the addition or removal of signs or small structures is not material unless they cause other material changes such as those listed above.

- (b) Any capital improvement which would materially alter the nature of the Project, regardless of its cost and prior to being constructed or accomplished, must be authorized by written consent of Owners holding at least thirty percent (30%) of the total Allocated Interests, and must be approved of by the Board and the Design Review Committee.
- 5.4 Paying Expenses. The Master Association shall provide for the payment of Master Association expenses.
- 5.5 Setting and Collecting Assessments. The Master Association shall establish, collect, and account for Assessments as necessary to operate the Project consistent with the requirements of the Governing Documents.
- 5.6 Adopting and Enforcing Rules. The Board may adopt Rules for the regulation and operation of the Project. If Rules are adopted they shall be consistently and uniformly enforced. The Rules may address any issues, including those addressed in any other Governing Document. The Rules may supplement, clarify, and add detail to issues or items addressed in the other Governing Documents, so long as the Rules do not contradict the same. The Board's determination as to whether a particular activity being conducted, or to be conducted, violates, or will violate the Rules, shall be conclusive, subject to a judicial determination, if any is timely sought. The standard for adoption of Rules is one of reasonableness. A Rule must be reasonable in light of the circumstances pertaining to the situation or issue addressed by the Rule.
- 5.7 Hiring Managers and Delegating Responsibilities. The Master Association shall hire a Manager or Managers to assist the Board in the management and operation of the Project and may delegate its powers and obligations in the Governing Documents to the Manager, employees, or other agents as the Board deems appropriate; provided, however, that only the Board shall have the right to approve Master Association budgets, fines to Owners, and Assessments. Any powers and duties delegated to any Manager or other Person may be revoked by the Board at any time, with or without cause. **THE BOARD HAS NO AUTHORITY TO ENTER INTO ANY MANAGEMENT AGREEMENT OR CONTRACT INCONSISTENT WITH THE TERMS OF THESE GOVERNING DOCUMENTS, OR THAT PROVIDES FOR ANY TERMINATION FEE OR REQUIREMENT FOR TERMINATION FOR CAUSE.**
- 5.8 Other Necessary Rights. The Master Association shall have any other right that is reasonably necessary to carry out the terms of the Governing Documents.
- 5.9 Enforcement Rights. In addition to any other remedies allowed or provided in the Governing Documents for any violation of the Governing Documents, the Master Association may: (a) impose fines; (b) collect rents directly from tenants if Owners fail to pay Assessments; and (c) take any other action, or seek any other remedy allowed by the Act or other applicable Utah law.
- 5.10 Discretion in Enforcement.
- (a) Subject to the discretion afforded in this section, the Board shall uniformly and consistently enforce and implement the Terms and Conditions in the Governing Documents.

- (b) The Board shall use its reasonable judgment to determine whether to exercise the Master Association's powers to impose sanctions or pursue legal action for a violation of the Governing Documents, and may include in this analysis: (i) whether to compromise a claim made by or against the Board or the Master Association; and (ii) whether to pursue or compromise a claim for an unpaid Assessment.
  - (c) The Master Association may not be required to take enforcement action if the Board, after fair review and acting in good faith and without conflict of interest, determines that under the particular circumstances: (i) the Master Association's legal position does not justify taking any or further enforcement action; (ii) the covenant, restriction, or rule in the Governing Documents is likely to be construed as inconsistent with current law; (iii) a technical violation has or may have occurred, and the violation is not material as to a reasonable person, or does not justify expending the Master Association's resources; or (iv) it is not in the Master Association's best interests to pursue an enforcement action based upon hardship, expense, or other reasonable criteria.
  - (d) Subject to Subsection (e), if the Board decides, under Subsection (c) above, to forego enforcement, the Master Association is not prevented from later taking enforcement action.
  - (e) The Board shall not be arbitrary, capricious, or act against public policy in taking, or not taking enforcement action.
- 5.11 Reserve Fund. Subject to the exemption in Section 20.11 herein, the Master Association shall maintain a reserve fund and shall obtain and update a Reserve Analysis, as required in Article 17 of this Master Declaration.
- 5.12 Preventing Conflicts with Service Providers and Vendors. Subject to the exemption in Section 20.15 herein, the Master Association shall not permit any paid services to be performed or materials paid for by the Association to be provided by: (a) any Board Member; (b) any relative of any Board Member, Manager, or of any officer, employee, or owner of the Manager; (c) any business or entity in which any Board Member, Manager, or employee, officer, or owner of any Manager, or any relative of the same is employed or has more than a ten percent (10%) ownership or beneficial interest; or (d) any business, entity, or Person with any familial or financial relationship with any Board Member, Manager, or of any officer, employee, or owner of the Manager, or any relative of the same without prior written disclosure of the relationship and prior written approval of the Board. For purposes of this Section 5.12, a relative is any natural individual known to be related by blood or marriage. The provision of services and materials for purpose of this provision shall include Managers, insurance brokers, investment or financial advisors, accountants, landscapers, contractors, and all other companies and Persons providing similar services to the Master Association.
- 5.13 Establishing Hearing Procedures. The Board shall have the authority to create a reasonable hearing process, applicable in case the Master Association shall take adverse action related to any particular Owner or group of Owners, or in case a hearing process is required by law. The Board shall not be under any obligation to offer a hearing process, except as required by law or the Governing Documents, and, in any such process, shall

have the authority to designate the procedure related to any such hearing, and to make any and all final determinations of issues subject to the hearing process. The Board may establish the hearing process on an as-needed basis for particular matters as they arise, or may set forth a process in the Rules applicable generally to such matters that it designates. Any such hearing process shall provide, at a minimum, for: (a) at least two weeks' notice of the hearing to the Owner; and (b) a reasonable time period under the circumstances for the Owner to present his/her own testimony, the testimony of others, argument, authority, evidence, and other information the Owner deems relevant to the disputed issue.

- 5.14 Annual Meeting. The Master Association shall arrange for and conduct an annual meeting of the Owners, as provided for in the Bylaws, and shall arrange for and conduct such other meetings of the Master Association, as shall be properly requested pursuant to the Governing Documents or the law.
- 5.15 Payoff Information Fees. The Master Association is specifically authorized to establish a fee of \$25.00 to provide payoff information related to the transfer, refinance, or closing of a Unit. The Board may increase or decrease the amount charged if the new amount is identified in the Rules and is consistent with Utah law.
- 5.16 Reinvestment Fee upon Sale or Transfer of Unit. The Master Association may require the transferor/seller or transferee/buyer to pay a fee related to the transfer of a Unit (a "Reinvestment Fee"), as provided for in Utah Code Ann. § 57-1-46, in an amount up to one and one-quarter percent (1.25%) of the value of the Unit at the time of the transfer, or in such other amount as may be determined by the Board and set forth in the Rules, consistent with Utah Code Ann. § 57-1-46. Every Reinvestment Fee collected by the Master Association shall be allocated as follows: seventy-five percent (75%) to the Golf Club, consistent with Utah Code Ann. § 57-1-46(1)(ii), and twenty-five percent (25%) to the Master Association. For purposes of this Section 5.16, a transfer is any change in the ownership of the Unit as reflected in the office of the county recorder, regardless of whether it is pursuant to the sale of the Unit or not, but excluding any transfer by the Declarant to the Builder or to any other entity owned by any interest-holder(s) of the Declarant, and excluding the initial sale of the Unit by the Declarant or the Builder. For purposes of this Section 5.16, the value of the Unit shall be the higher of: (a) the value of the Unit as determined by the property tax assessor on the date of the transfer of title; (b) the purchase price paid for the Unit, related to the transfer; or (c) the value of the Unit on the date of the transfer of title as determined in an appraisal that may be obtained (in the discretion of the Board) and paid for by the Master Association using an appraiser selected by the transferor (or the transferee) of the property from a list of five appraisers selected by the Master Association. This reinvestment fee covenant may not be enforced against: (i) an involuntary transfer; (ii) a transfer that results from a court order; (iii) a *bona fide* transfer to a family member of the seller within three degrees of consanguinity who, before the transfer, provides adequate proof of consanguinity; (iv) a transfer or change of interest due to death, whether provided in a will, trust, or decree of distribution; or (v) the transfer of burdened property by a financial institution, except to the extent that the reinvestment fee covenant requires the payment of a common interest Master Association's costs directly related to the transfer of the burdened property, not to exceed \$250, or such other amount as may be established by law. The Master Association shall

have authority to record any notice required by law to effectuate this provision. The Master Association shall have the authority to enact Rules that may include: (1) requirements for Owners to provide sales and transfer documents; (2) requirements for the timing of responses to requests, such as the selection of the appraiser; (3) default provisions if no selection is made, such as allowing the Master Association to select the appraiser; and (4) other procedural requirements and rules as the Board deems appropriate to effectuate the terms of this provision in a prompt and reasonable manner.

- 5.17 Neighborhood Sub-Association Responsibilities Each Neighborhood Sub-Association within the Project is subject to, and bound by, this Master Declaration. Each Neighborhood Sub-Association shall be responsible for administering and enforcing the Additional Covenants applicable to its respective Neighborhood. Each Neighborhood Sub-Association shall be responsible to make provisions for completing all maintenance, repair, and replacement obligations as set forth in that Neighborhood Sub-Association's covenants, in a manner consistent with the Community-Wide Standards.

## ARTICLE 6 BUDGETS & ASSESSMENTS

- 6.1 Purpose of Assessments. Money collected by the Master Association shall be used for the purposes of promoting the health, safety, and welfare of the Owners; the management, maintenance, care, preservation, operation, and protection of the Project; enhancing the quality of life of the Owners in the Project; enhancing and preserving the value of the Project; and in the furtherance of carrying out or satisfying any other duty or power of the Master Association.
- 6.2 Budget and Base Assessment.
- (a) The Board is authorized and required to adopt a budget for the following fiscal year prior to the beginning of each fiscal year. The Board may revise that budget from time to time as it deems appropriate.
  - (b) The budget shall cover the period of the next fiscal year. The budget shall estimate the total Common Expenses to be incurred for the next fiscal year (or that fiscal year for a revised budget), which shall be broken down into reasonably detailed expense categories. Subject to the provisions of Section 20.17 herein, the budget shall include a line item that identifies the amount to be placed into the reserve fund. The budget may include contingencies and estimates as the Board deems appropriate.
  - (c) The Board shall provide a copy of the budget to all Owners no later than thirty (30) days after the adoption of the proposed budget or any revised budget. Posting a copy of the budget on the Master Association's website, if available, shall satisfy the requirement of this Section 6.2(c).
  - (d) The Board shall determine the amount of the Base Assessments by dividing the budget total by the total Allocated Interests, subject to the provisions of Section 20.6 herein, to be paid by the Owners for their respective Unit.

- 6.3 Payment of Base Assessments. Unless otherwise established by the Board and communicated to each Owner, each Owner shall pay to the Master Association the Owner's Base Assessment annually or on such other quarterly or monthly installment basis as the Board or the Manager may determine.
- 6.4 Adjustments to Base Assessments. In the event the Board determines that the estimate of total charges for the current year is, or will become, inadequate to meet all Common Expenses for any reason, the Board may then revise the budget and each Owner's proportional share of the new budget total. Upon notice of the adjustment, and unless modified by the Board, each Owner thereafter shall pay to the Master Association the Owner's adjusted Base Assessment.
- 6.5 Personal Obligation for Assessment. Each Owner of any Unit, by acceptance of a deed or other instrument creating in such Owner the interest required to be an Owner, whether or not it shall be so expressed in any such deed or other instrument, and regardless of any lien rights or lack thereof, hereby personally covenants and agrees with each other Owner and with the Master Association to pay to the Master Association any and all Assessments as provided for in the Governing Documents, including any Assessments assessed to a Unit which remain unpaid as of the date an Owner acquired title to the Unit. All such Assessments, together with such interest, collection charges, costs and attorneys' fees, shall also be the personal obligation of the Owner of such Unit at the time the Assessment becomes due.
- 6.6 Capital Improvements. Expenses for capital improvements may be included in the budget, paid for through special Assessments, or paid for in any other manner as determined by the Board.
- 6.7 Rules Regarding Billing and Collection Procedures. The Board shall have the right and responsibility to adopt Rules setting forth procedures applicable to Assessments provided for in this Master Declaration, and for the billing and collection of all Assessments, provided that such procedures are not inconsistent with the provisions herein. Such procedures and policies may include, but are not limited to, establishing the date when Assessment payments are due and late, establishing late fees and collection charges, and establishing interest (per annum or compounded) that may be charged on unpaid balances. The failure of the Master Association to send a statement to an Owner, or an error in any such statement (other than a Certificate of Payment), shall not relieve any Owner of liability for any Assessment or charge under the Governing Documents.
- 6.8 Certificate of Payment. The Master Association, within ten (10) business days after written demand, shall furnish to any Owner liable for Assessments, or such other Person for whom an Owner has given written permission in a form acceptable to the Master Association, a written statement or certificate signed by an officer or authorized agent of the Master Association setting forth whether the Assessments relating to a specified Unit have been paid and the amount of delinquency, if any. A reasonable charge of twenty-five dollars (\$25.00), or such other amount allowed by law and set forth in the Rules, may be collected by the Board for the issuance of each such certificate. Each certificate is conclusive in favor of a Person who relies on the written statement in good faith.

- 6.9 Special Assessments. Subject to any limitations in this Master Declaration for the particular type of expense, the Master Association is expressly authorized to set and collect Special Assessments, payable as may be determined by the Master Association (in lump sums or over a period of time), to pay for any Common Expenses. Notwithstanding the wording or terms of any notice of Special Assessment, a Special Assessment shall be deemed assessed, for all purposes, on the date that the payment for the Assessment is due. Additionally, Special Assessments may be levied by the Master Association against a particular Unit and its Owner for:
- (a) Costs incurred in bringing an Owner, or the Owner's Unit, into compliance with the provisions of the Governing Documents;
  - (b) Fines, late fees, collection charges, and interest; and
  - (c) Attorneys' fees, costs and other expenses relating to any of the above.
- 6.10 Specific Assessments. Subject to any limitations in this Master Declaration for the particular type of expense, the Master Association is expressly authorized to set and collect Specific Assessments, payable as may be determined by the Master Association, to pay for the cost of providing benefits, items, or services to a Unit, an Owner, or Occupants, or specific to a particular Neighborhood which primarily benefit the Units, Owners, and Occupants of such Neighborhood, such as Unit exterior maintenance, landscape maintenance on non-Common Area or Limited Common Area, and/or snow removal on non-Common Area or Limited Common Area, or private streets within the Neighborhood. The Master Association, in its discretion, shall determine whether costs should be assessed as Specific Assessments or should be classified as Common Expenses. Additionally, the Master Association is expressly authorized to set and collect Specific Assessments, payable as may be determined by the Master Association, to pay for the cost of providing benefits, items, or services to a Unit, or Owner, or Occupant upon request of the Owner, pursuant to a menu of special services which the Board may, from time to time, authorize to be offered to Owners, (which might include, for example, handyman services, landscape maintenance, snow removal, or pest control), and for any other charge designated by the Board as pertaining to an individual Unit consistent with the Governing Documents.
- 6.11 Acceptance of Materials or Services. In the event the Master Association undertakes to provide materials or services that are not otherwise required in the maintenance of the Project which benefits individual Units, and which can be accepted or not by individual Owners, such Owners, in accepting such materials or services, impliedly agree that the costs thereof may be assessed as a Specific Assessment pertaining to that Unit, at the discretion of the Board.
- 6.12 Application of Excess Assessments. In the event the amount budgeted to meet Common Expenses for a particular fiscal year proves to be excessive in light of the actual Common Expenses, the Board, in its discretion, may apply the excess to reserves, credit the excess against future Assessments, or refund the excess to the Owners in proportion to the Allocated Interests of each Unit in the Common Expenses of the Project, as the Board deems appropriate. The decision of the Board shall be binding and conclusive. The Master Association shall not be obligated to reduce the amount of Assessments in succeeding years if an excess exists for a prior year.

- 6.13 No Offsets. All Assessments shall be payable at the time and in the amount specified by the Master Association, and no offsets against such amount shall be permitted for any reason, including, without limitation, a claim that the Board is not properly exercising its duties and power, a claim in the nature of offset or that the Master Association owes the Owner money, or that the Master Association is not complying with its obligations as provided for in the Governing Documents.
- 6.14 How Payments Are Applied. Unless otherwise provided for in the Rules, all payments for Assessments shall be applied first to interest, late fees, collection costs, attorneys' fees, and then to the earliest Assessment. Owners shall have no right to direct the application of their payments on Assessments or to require application of payments in any specific order, to specific charges, or in specific amounts.

#### ARTICLE 7

#### NONPAYMENT OF ASSESSMENTS & JOINT AND SEVERAL LIABILITY OF OWNERS FOR ALL PAST UNPAID ASSESSMENTS

- 7.1 Delinquency. Assessments not paid within the time required shall be delinquent. Whenever an Assessment is delinquent, the Board may, at its option, invoke any or all of the remedies granted in this Article 7. The Master Association's choice of one remedy shall not prejudice or constitute a waiver of the Master Association's right to exercise any other remedy.
- 7.2 Collection Charges and Interest. If the Master Association does not otherwise adopt or establish billing and collection procedures in the Rules, the following shall apply: The Assessments shall be due within thirty (30) days of invoicing. Payments received after thirty (30) days from invoicing may be charged for initial late fee in such amount as may be determined by the Board, in its discretion, and allowed by law. Thereafter, additional late fee charges may be added for each month that an Owner's account has an unpaid balance. In addition to late fees, interest shall accrue on all unpaid balances, including unpaid prior attorney fees, interest (resulting in compounding of interest), late fees, and Assessments, at the rate of two percent (2%) per month, or at such other rate as may be determined by the Board, in its discretion, and allowed by law. The Master Association may also assess to the Owner a collection charge, late fee, and any other reasonable charge charged by a Manager related to collections.
- 7.3 Joint and Several Liability of Owner and Future Owners for All Past and Presently Accruing Unpaid Assessments. Except as otherwise provided by law, the Owner and any future Owners of a Unit are jointly and severally liable for all Assessments accruing related to that Unit prior to and during the time that an Owner holds title to a Unit. An Owner is not liable for any Assessments accruing after he/she has lawfully transferred the Unit to another Owner. The recording of a deed to a Person that has not agreed to take ownership of the Unit shall not be considered a legal conveyance of title. The obligation in this Section 7.3 is separate and distinct from any lien rights associated with the Unit.
- 7.4 Lien. The Master Association has a lien on each Unit for all Assessments, which include, but are not limited to, interest, collection charges, late fees, attorneys' fees, court costs, and other costs of collection (which shall include all costs and not be limited by those costs that may be awarded under the Utah Rules of Civil Procedure). This lien shall arise and be perfected as of the date of the recording of this Master Declaration. The Master

Association's lien shall have priority over each other lien and encumbrance on a Unit, except only: (a) a lien or encumbrance recorded before this Master Declaration is recorded; (b) a first or second security interest on the Unit secured by a mortgage or trust deed that is recorded before a recorded notice of lien by or on behalf of the Master Association; and (c) a lien for real estate taxes or governmental assessments or charges against the Unit or as otherwise provided by law. The Master Association may, but need not to, record a notice of lien on a Unit. If an Assessment is payable in installments, the lien is for the full amount of the Assessment from the time the first installment is due, unless the Master Association provides otherwise in the Notice of Assessment. The Master Association also has a lien on each Unit for all fines imposed against an Owner by the Master Association. This lien shall arise and be perfected when: (a) the time for appeal described in Utah Code Ann. § 57-8a-208(5) has expired and the Owner did not file an appeal; or (b) the Owner timely filed an appeal under Utah Code Ann. § 57-8a-208(5) and the district court issued a final order upholding the fine.

- 7.5 Action at Law. The Master Association may bring an action to recover a delinquent Assessment personally against the Owner obligated to pay the same. Any attorneys' fees and costs incurred in this effort shall be assessed against the delinquent Owner and the Owner's Unit, and such attorneys' fees and court costs will be added to the amount in delinquency (plus interest and collection charges, if appropriate). Each Owner, by taking title to a Unit, vests in the Master Association, or its assigns, the right and power to bring actions at law against such Owner or Owners for the collection of delinquent Assessments.
- 7.6 Foreclosure Sale. The Master Association shall have all rights of foreclosure granted by the Act, both judicially and non-judicially. The Declarant appoints Melyssa D. Davidson as trustee, who qualifies under Utah Code Ann. § 57-1-21(1)(a)(i). The Declarant hereby conveys and warrants pursuant to Utah Code Ann. § 57-1-20 and 57-8a-302 to Melyssa D. Davidson, with power of sale, the Unit and all improvements to the Unit for the purpose of securing payment of Assessments under the terms of the Master Declaration. The Master Association may appoint a qualified successor trustee by executing and recording a substitution of trustee form. Any attorneys' fees and costs incurred in any lien foreclosing shall be assessed against the delinquent Owner and the Owner's Unit, and such attorneys' fees and court costs will be added to the amount in delinquency (plus interest and collection charges, if appropriate). Each Owner, by taking title to a Unit, vests in the Master Association, or its assigns, the right and power of lien foreclosures against such Owner or Owners for the collection of delinquent Assessments.
- 7.7 Homestead Waiver. Each Owner, to the extent permitted by law, by taking title to a Unit, waives, to the extent of any liens created pursuant to this Master Declaration (whether such liens are now in existence or are created at any time in the future) the benefit of any homestead or exemption laws of the State of Utah now in effect, or in effect from time to time hereafter.
- 7.8 Termination of Delinquent Owner's Rights. The Master Association shall have all rights provided for in the Act to terminate a delinquent Owner's right to vote.

- 7.9 Requiring Tenant to Pay Rent to Master Association. Pursuant to, and as provided for in the Act, the Master Association shall have a right to demand and collect rent from any tenant in a Unit for which an Assessment is more than sixty (60) days late.
- 7.10 Attorneys' Fees Incurred as a Result of a Default. In addition to any attorneys' fees and costs provided for herein, the Master Association shall be entitled to recover its attorney fees and costs incurred as a result of an Owner's failure to timely pay Assessments, including, but not limited to, attorneys' fees and costs incurred to: (a) obtain advice about a default; (b) collect unpaid Assessments; (c) file lawsuits or other legal proceedings related to a default in an effort to collect unpaid Assessments; (d) file pleadings, notices, objections, and proofs of claim in any bankruptcy proceeding; (e) examine the debtor or others related to collections; (f) monitor any bankruptcy proceedings, including, but not limited to, regular monitoring of an Owner's progress in a chapter 13 plan for the duration of the plan; (g) file relief from stay motions, objections, or other adversary proceedings in bankruptcy and all related activities, including seeking and responding to discovery, taking depositions or examinations, introducing evidence, hiring and paying expert witnesses, filing motions and other pleadings, attending trials, hearings, or other court proceedings, including, as reasonably necessary, related to assert any non-dischargeability of debts, to assert claims against the estate or co-debtors, to challenge exemptions, to pursue any appropriate adversary proceeding, or for any other reason related to the ultimate attempt to collect unpaid Assessments; and (h) foreclose of a lien, secure lien rights, or prepare any notice of lien. This provision is to be construed broadly to permit the Master Association to recover all fees and costs in any way related to an Owner's default in the payment of Assessments and the ultimate collection of those Assessments.
- 7.11 Master Association Responsibility after Foreclosure. If the Master Association takes title to a Unit pursuant to a foreclosure (judicial or non-judicial), the Master Association shall not be bound by any of the provisions related to the Unit that are otherwise applicable to any other Owner, including, but not limited to, obligations to pay assessments or maintain the Unit.

## ARTICLE 8 DESIGN CONTROLS

- 8.1 Design Review Committee. The Design Review Committee shall be composed of at least three (3), but not more than five (5), individuals appointed by the Board. Persons serving on the Design Review Committee shall serve at the pleasure of the Board. The Board may remove a member of the Design Review Committee and appoint a new Design Review Committee member at any time, provided that at all times there shall be a least three (3) persons serving. Members of the Design Review Committee may or may not be Board Members or members of the Master Association, and may include one or more paid professionals, such as an architect, to perform such services. The Design Review Committee shall have the authority to enforce the Design Guidelines for the Association. The Design Review Committee shall have and may exercise all the powers, duties, and responsibilities assigned to it or otherwise set out in this Master Declaration. The Design Review Committee may hire a secretary or other personnel to perform administrative, clerical, and other functions. The operating costs of the Design Review Committee, including the

services of its planning consultants, professionals, and other staff, shall be covered through a fee paid to the Design Review Committee by Owners applying for plan review and approval consistent with § 57-8a-109(2) of the Act. The Design Review Committee shall make available to all Owners a current fee schedule. The Design Guidelines shall also set forth the fee schedule, and the fee schedule may be modified from time to time in accordance with the provisions herein for the amendment and updating of the Design Guidelines. Fees must be paid, in full, before any review by the Design Review Committee commences and the unused portion of such fee, if any, is refundable.

- 8.2 Authority. Except as otherwise provided in this Master Declaration, no improvements of any kind, or changes to the natural condition of any property shall be permitted or allowed to remain on any Units, Lot, or elsewhere in the Project unless complete architectural plans, specifications, and site plans showing the location and orientation for such construction, alteration, or landscaping are approved by the Design Review Committee prior to the commencement of any work. Work subject to Design Review Committee approval may include, but is not limited to, the construction of structures, installation of utility lines, fences, grading, antennas, satellite dishes, flag poles, any renovation, expansion, or refinishing of the exterior of an existing Unit or structure, excavating, clearing, landscaping, or other alterations. Notwithstanding the foregoing, any work performed by the Declarant or Builder, or on behalf of Declarant, to any of the property within the Project, including, but not limited to, the construction of Development Improvements and infrastructure, or the initial construction of the Units by the Declarant or the Builder shall not require approval of the Design Review Committee.
- 8.3 Design Review Committee Review Process. Subject to Section 8.11, the process for reviewing building applications will be defined by the Rules established by the Design Review Committee and adopted by the Master Association and the Design Review Committee.
- 8.4 General Standards. Subject to Section 8.11, the Design Review Committee shall evaluate, among other things: (a) the materials to be used on the exterior of Unit or structures; (b) exterior colors; (c) harmony of architectural design with other Units within the Project; (d) height and other design features; (e) location with regard to topography and finished grade elevations; (f) harmony of landscaping with the structures constructed on the Lot and with the Community-Wide Standard; (g) impact of lighting on night skies and neighboring Units (exterior and interior); and (h) consistency with the Design Guidelines.
- 8.5 Rules. Subject to the exceptions in Section 20.7 herein, the Design Review Committee shall have the authority to promulgate, adopt, amend, and/or replace rules and regulations necessary to implement these design covenants and establish a design review process by the affirmative vote of a majority of the Design Review Committee and notice as may be required under the Act. Individual Neighborhoods within the Project may be subject to additional covenants.

- 8.6 Construction Rules. Except for construction performed by the Declarant and/or the Builder, with regard to any construction of Units, any construction project affecting the exterior of any Unit, including landscaping, the Design Review Committee may impose reasonable rules and regulations to minimize the inconvenience to surrounding Owners during the period of construction and/or to avoid damage to any neighboring Lot or Common Area and Facilities. The Design Review Committee may impose rules requiring pre-construction conferences and regulations regarding portable offices and trailers, construction debris removal, construction area appearance, sanitation facilities, construction vehicles and parking, construction signs, hours of work, soil conservation and dust, removal of mud, and duration of construction. Concurrent with final plan submittal, an Owner shall deposit with the Design Review Committee a performance deposit to be determined by the Design Review Committee. Additionally, the Owner shall execute and deliver to the Design Review Committee, as appropriate, a deposit agreement in the form specified in the Design Guidelines. The performance deposit shall be held in escrow pending the completion (including clean up) of all improvement described in the final, approved plans and constructed on the Owner's Unit. In the event that the Owner, the contractor, or the contractor's respective agents, representatives, or employees: (a) cause any damage; (b) fail to construct the Unit or improvements in accordance with the approved plans; or (c) fail to comply with the Design Guidelines, the Master Declaration, or any Rules, the Design Review Committee may use the performance deposit, among other things, to repair and/or rectify the damage, or enforce the Design Guidelines, the Master Declaration, and any other Rule thus violated, and cure any defect or problem caused by the non-compliance. In the event of the Design Review Committee's use of all or any portion of the performance deposit, the Owner shall immediately pay to the Master Association an amount sufficient to replenish the performance deposit to the sum initially deposited. Failure to replenish the performance deposit within seven (7) days following the Design Review Committee's delivery of written demand shall be deemed a material breach of the Design Guidelines and this Master Declaration and shall entitle the Design Review Committee to deny the Owner's contractors access to the Development (including any of contractor's suppliers, subcontractors, employees, and material men), and lien the Unit in an amount equal to the performance deposit deficiency. Contemporaneous with tendering the performance deposit, the Owner shall execute and deliver to the Design Review Committee a Notice of Voluntary Lien in a form consistent with the Design Guidelines' requirements.
- 8.7 No Liability. Neither the Design Review Committee, the Board, the Master Association or any of its Members, nor the Declarant shall be liable for damages to any Person submitting any plans for approval, or to any Owner by reason of any action, failure to act, approval, disapproval, or failure to approve or disapprove with regard to such plans. The Design Review Committee shall have no liability or responsibility for any representations made to any Owner or prospective owner by any third parties.

- 8.8 Written Records. The Design Review Committee shall compile complete and permanent written records of all approved applications, including one set of the final approved architectural and site development plans, and of all actions of approval or disapproval, and all other formal actions taken by it under the provisions of Article 8. The records of the Design Review Committee shall be maintained by the Master Association. Notwithstanding anything to the contrary herein, records of the Master Association may be maintained in electronic format.
- 8.9 Inspection and Compliance. The Design Review Committee shall have no duty or obligation to make inspections of any construction. Nothing herein, however, shall prohibit or prevent the Design Review Committee from making inspections prior to, during, or after construction. Upon the completion of any work for which approved plans and specifications are required, the Owner shall give written notice of completion to the Design Review Committee. Within forty-five (45) days after receipt of such notice, the Design Review Committee may inspect the work to determine its compliance with the approved plans. If the Design Review Committee does not respond within such time, the work shall be deemed approved. If the Design Review Committee finds that the work was not done in substantial compliance with the approved plans, or that any construction or change in natural conditions on any Unit was undertaken without first obtaining approval from the Design Review Committee, written notice shall be sent by the Design Review Committee to such Owner specifying the non-compliance and requiring the Owner to cure such non-compliance within thirty (30) days or any extension thereof granted. If the Owner fails to cure the non-compliance or to enter into an agreement to cure on a basis satisfactory to the Design Review Committee within the time provided, the Board, at its option, may cause the non-complying improvement to be removed, or the non-compliance to be cured. Upon demand, the Owner shall reimburse the Master Association for all costs and expenses incurred by the Design Review Committee and/or the Board in taking corrective action, plus all costs incurred in collecting amounts due, including reasonable attorneys' fees and costs (the "Compliance Assessment"). The Owner shall be personally liable for all such costs and expenses, and the Master Association also shall have a lien against the non-complying Unit for the amount of all such costs and expenses. Any amounts not paid, without waiver of any other right or remedy, may be collected as an Assessment Lien. Such lien may be (a) evidenced by a statement executed by the Master Association and notice of the lien recorded with the Wasatch County Recorder; (b) subordinate only to the first Mortgage; and (c) subject to foreclosure in the manner provided by law. Notwithstanding any other provisions hereof, the Design Review Committee shall not be responsible for: (i) determining that any construction or construction documents conform to applicable building codes, zoning, or other land-use regulations; (ii) the accuracy or content of any construction documents or specifications prepared by any architect, engineer, or any other person; (iii) construction means, methods, techniques, sequences or procedures, safety precautions or subsequent loss, damage or failures due to soil or any other natural or man-made conditions that may exist; or (iv) any failure to carry out any construction in accordance with plans or specifications.

- 8.10 Variances. The Design Review Committee may authorize variances from non-compliance with any of the Design Guidelines or the design provisions of this Master Declaration when circumstances such as topography, natural obstructions, hardship, esthetic or environmental considerations may require, subject to City approval. Such variances must be in writing, and signed by a majority of the Design Review Committee. If such variances are granted, no violation of the covenants, conditions, or restrictions contained in this Master Declaration or the Design Guidelines shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of such a variance shall not operate to waive any of the terms and provisions of this Master Declaration for any purpose except as to the particular property and provision hereof covered by the variance, and shall not affect in any way the Owner's obligation to comply with all governmental laws and regulations affecting the use of the Unit. The Design Review Committee shall be the final decision-maker on all Design Review Committee and Design Guideline matters.
- 8.11 Design Controls Not Applicable to Declarant. Notwithstanding anything in Article 8 to the contrary, during the Declarant Control Period, the Declarant shall have authority to approve plans for the initial construction of a Unit and initial landscaping.

**ARTICLE 9**  
**RIGHT TO USE COMMON AREA AND FACILITIES**

- 9.1 Rights and Nonexclusive License to Use Common Area and Facilities.
- (a) Subject to all other terms of the Governing Documents, each Owner shall have the right and a nonexclusive license for use and enjoyment of the Common Area and Facilities, subject to any restrictions related to such use. Such right and nonexclusive license shall be appurtenant to and shall pass with title to each Unit, and in no event shall such appurtenant rights be separated therefrom. Authorized Occupants shall have the same access and use rights to the Common Area and Facilities as an Owner. All such rights shall be subject to any Rules established by the Board.
- (b) The Master Association shall have nonexclusive easements with the right of access over and across each Unit, to make inspections, to prevent or mitigate damage to Common Area and Facilities, and to maintain, repair, replace or effectuate the restoration of the Common Area and Facilities, and any other property or improvements for which the Master Association is responsible for maintaining, which are accessible from such Unit. Such rights shall be exercised only after the notice required in this Master Declaration. The Master Association shall have a nonexclusive right to grant permits, licenses, and easements upon, across, over, under, and through the Common Area and Facilities for purposes necessary for the proper operation of the Project.
- 9.2 Public Utilities. Easements and rights-of-way over the Project for the installation and maintenance of electricity lines, telephone lines, water lines, gas lines, sanitary sewer lines, drainage facilities, data lines, video lines and cables, telecommunication fixtures and equipment, utility fixtures and equipment, and such other lines, fixtures, or equipment needed or determined by the Board to be helpful in serving the Project, Units,

or Owners in the Project are hereby reserved to the Declarant and the Master Association, together with the right to grant, alter, and transfer the same; provided, however, such easements and rights-of-way shall not unreasonably interfere with the use of the Common Area and Facilities and the Units by the Owners or Occupants. The Master Association shall have the power to grant and convey, in the name of the Master Association or for all of the Owners as their attorney-in-fact, to any Person, easements and rights-of-way in, on, over or under the Common Area and Facilities or Units for the purpose of constructing, erecting, operating, or maintaining lines, cables, wires, wireless transmission or reception equipment, conduits, or other devices for electricity, cable television, power, telecommunications, internet, telephone, public sewers, storm water drains and pipes, water systems, irrigation systems, water heating and gas lines or pipes and any other public, quasi-public, or private improvements or facilities. Each Owner, in accepting the deed to a Unit, expressly consents to such easements and rights-of-way and authorizes and appoints the Master Association as attorney-in-fact for such Owner to execute any and all instruments conveying or creating such easements or rights-of-way. Such Owner, and those claiming by, through, or under an Owner, agree to execute promptly all such documents and instruments and to do such other things as may be necessary or convenient to effect the same at the request of the Master Association; provided, however, that no easement may be granted pursuant to this Section 9.2 if it would permanently and materially interfere with the use, occupancy, or enjoyment by any Owner of such Owner's Unit.

- 9.3 Easements for Encroachments. If any portion of the Common Area and Facilities, or any Development Improvement encroaches upon any Unit, or if any Unit encroaches upon any other Unit or the Common Area and Facilities, as a result of the manner in which the Development Improvements are constructed or due to settling, shifting, alteration, replacement, repair or restoration by the Declarant or the Master Association, a valid easement for encroachment, and maintenance of such encroachment, shall exist for the life of the improvement.
- 9.4 Limitation on Easement—Suspension of Owner's Rights. An Owner's rights and license for the use and enjoyment of the Common Area and Facilities shall be subject to any other limitation in the Governing Documents and the following:
- (a) The right of the Master Association to impose reasonable limitations on the number of Occupants per Owner who at any given time are permitted to use the Common Area and Facilities; and
  - (b) The right of any governmental or quasi-governmental body having jurisdiction over the Project to access and to have rights of ingress and egress over and across any roadway, parking area, or developed open space contained within the Project for purposes of providing police and fire protection, transporting school children, and providing other governmental or municipal services.
- 9.5 Views. Views from a Unit and the Project are not assured or guaranteed in any way. There is no warranty concerning the preservation of any view or view plane from the Project, and each Owner and Occupant in such Owner's Unit acknowledges and agrees that there are no view easements or view rights appurtenant to the Unit or the Project.

ARTICLE 10  
USE LIMITATIONS AND CONDITIONS

- 10.1 Rules. The Board shall have authority to promulgate and enforce such reasonable Rules and procedures as may aid the Master Association in carrying out any of its functions to ensure that the Project is maintained and used in a manner consistent with the interest of the Owners and/or the Community-Wide Standards. Pursuant to 57-8a-218(15) of the Act, the requirements of 57-8a-218, subsections (1) through (12) of the Act, except subsection (1)(b)(ii), are hereby modified and shall not apply to the Master Association.
- 10.2 Signs. Subject to Design Guideline requirements governing posting of certain construction signage, and subject to the exemption in Section 20.12 herein, the Master Association may regulate and restrict signs in the Project, to the extent permitted by law, in the Rules and Regulations. As used herein, the term “signs” shall include any type of object (including, but not limited to, flags, billboards, banners, plaques, a-frames, easel signs, poly-bag signs, corrugated plastic signs, lawn signs, window signs) used to convey a message, symbol, idea, identification, or for any other purpose that signs are typically used, that is placed in, on, or outside of a Unit with the apparent purpose, in whole or in part, of making it visible to another Unit.
- 10.3 Nuisance. No noxious or offensive activity shall be carried on upon the Project, nor shall any activity that might be or become an annoyance or nuisance to the Owners or Occupants be permitted to interfere with their rights of quiet enjoyment, or increase the rate of any insurance, or decrease the value of the Units. No Owner or Occupant shall engage in activity within the Project in violation of any applicable federal, state, or local law, ordinance, statute, or regulation.
- 10.4 Temporary Structures. Except as provided in Sections 20.10 and 20.13 herein, or as authorized by the Design Review Committee, no structure or building of a temporary character, including a tent, trailer, or shack, shall be placed upon the Project or used therein, unless it is approved by the Board.
- 10.5 Parking. Unless otherwise permitted by the Master Association in the Rules, or by the Design Review Committee in conjunction with construction, and except for “customary parking” and “temporary parking,” as permitted by this Section 10.5, no automobiles or other vehicles of any type (including, without limitation, motorcycles, trailers, campers, vans, recreational vehicles, or boats) shall be parked, stored, or located within any portion of the Project. “Customary parking” shall mean the parking of operable automobiles, motorcycles, noncommercial trucks, and vans within the garage, driveway, or designated parking space for the respective Unit. “Temporary parking” shall mean parking on public roadways of operable vehicles belonging to Owners and Occupants and their invitees, including the parking of delivery trucks, service vehicles, and other commercial vehicles being used in the furnishing of goods and services to the Owners and Occupants. The Master Association may adopt Rules relating to the parking of vehicles within and in the area of the Project by Owners, Occupants, and their respective family members, tenants, and invitees, including, without limitation: (a) the right to remove, or cause to be removed, any vehicles that are improperly parked; (b) restrictions on the type and condition of vehicles in any customary or temporary parking; (c) restrictions on the time period and duration of temporary parking; and (d) the assessment of fines to Owners who

- violate the Rules, or Owners associated with people who violate such Rules. The Master Association may restrict or limit parking on public roadways by Owners, Occupants, and their invitees. Notwithstanding anything to the contrary herein, nothing in this Section 10.5 shall give the Master Association any general police powers over the public portions of the project, or the portion of the Project dedicated to the City.
- 10.6 Outside Speakers and Amplifiers. Except as permitted in the Rules, and subject to any regulations in the Rules, no radio, stereo, broadcast, loudspeaker, or projection of sound or music on, or directed to, the outside of any Unit shall be permitted.
- 10.7 Repairs. No repairs of any detached machinery, equipment, fixtures, or vehicles, shall be made within the Project, except as may be permitted by the Board in the Rules.
- 10.8 Unightly Items. All rubbish, debris, unsightly materials, or similar objects of any kind shall be regularly removed from Units, and shall not be allowed to accumulate therein or thereon. Refuse containers, machinery, and equipment not a part of the Units shall be prohibited on Unit, unless obscured from view of neighboring Units and Common Area and Facilities. Trash and garbage shall be properly and promptly disposed.
- 10.9 No Fires or Fireworks. No fires or fireworks are permitted anywhere in the Project, other than in approved residential fire pits or fire pits constructed as part of the Common Area and Facilities, if any.
- 10.10 Shooting and Hunting. Shooting of any type of firearm or bow is strictly prohibited within the Project. Hunting, including bow-hunting, is strictly prohibited within the Project.
- 10.11 Animals. Animals generally kept in households such as dogs, cats, birds, fish, hamsters, and ferrets may be kept in the Project subject to the rules and requirements of this Master Declaration. No more than three animals of any type may be kept in a Unit. No livestock, poultry, or reptiles, may be kept in any Unit. All animals are subject to the Rules adopted by the Board. Notwithstanding the foregoing, no animal may be kept within a Unit which: (a) is raised, bred, kept, or maintained for any commercial purposes; (b) causes a nuisance; or (c) in the good faith judgment of the Board, results in an annoyance or threat of injury, is obnoxious to, or unreasonably causes anxiety to other Owners or Occupants within the Project. The Board may exercise its judgment for specific animals even though others of the same breed or type are permitted to remain. All fecal matter shall be immediately cleaned up in the Project. The Board may adopt Rules adding further Terms and Conditions related to animals in the Master Association not inconsistent with this Master Declaration, including, but not limited to, requirements for registration, specific fees or deposits for Owners of Units that have animals, the use of leashes, and noise and barking limitations. An Owner who keeps a pet or animal of any kind is liable for any and all damage caused by such pet or animal, and shall indemnify and hold harmless the Master Association and any other Owner from any loss, claim or liability of any kind arising from, or related to, such pet or animal. Incessantly barking dogs will not be permitted.

### 10.12 Residential Occupancy.

- (a) No trade or business may be conducted in or from any Residential Unit unless:
  - (i) the existence or operation of the business activity is contained within the interior of the Unit and is not apparent or detectable by sight, sound, or smell, from any other Unit, or the Common Area and Facilities;
  - (ii) the business activity conforms to all zoning and legal requirements for the Project and the business activity;
  - (iii) the business activity does not involve solicitation of Occupants or Owners or utilize any portion of the Common Area and Facilities;
  - (iv) the business activity does not create parking issues or increased vehicle traffic in the Project from clients, customers, vendors, service providers, or other individuals coming into the Project who do not reside in the Project, as determined by the Board, in its sole discretion;
  - (v) the business activity is consistent with the primarily residential character of the Project and does not constitute a nuisance, a hazardous or offensive use, or threaten the security or safety of other Owners and Occupants of the Project;
  - (vi) the business activity is disclosed to the Board before business is commenced, along with a description of the business activity, a statement of the amount of space required in the Unit for such activity, and a description of any impact on the Project;
  - (vii) the business activity will not result in the increase of the cost of any of the Master Association's insurance;
  - (viii) the Owner of the Unit resides in the Unit in which the business activity is proposed for the entire time any business activity is conducted; and
  - (ix) the Board's ongoing requests for information related to the business, as necessary to determine compliance with this paragraph, are responded to fully and completely.
- (b) Except as allowed under Section 10.12(a) above, no Residential Unit may be used for any purpose other than a residential purpose. Notwithstanding anything to the contrary herein, nothing in this Section 10.12 shall apply to any commercial development within the Project.

### 10.13 No Subdivision or Timeshare of Unit or Recording by Owners of Terms and Conditions.

No Unit shall be split, subdivided, separated, or timeshared into two or more Units or property interests (whether temporally or spatially), and no Owner of a Unit shall sell or lease part thereof. No subdivision plat or covenants, conditions, or restrictions shall be recorded by any Owner or other Person with respect to any one Unit. No subdivision plat or covenants, conditions, or restrictions related to any Unit or the Project shall be recorded on the Project unless the Board and/or Owners (as required in this Master Declaration) have first approved the proposed plat or the proposed covenants, conditions,

or restrictions. Any plat or covenants, conditions, or restrictions recorded in violation of this Section 10.13 shall be null, void, and of no legal effect.

10.14 Variances. The Board, at its option, and in extenuating circumstances, may grant variances from the Terms and Conditions set forth in Article 10 if the Board determines in its discretion (by unanimous vote): (a) either that the Term and Condition would create an unreasonable hardship or burden on an Owner or Occupant, or that a change of circumstances since the recordation of this Master Declaration has rendered such Term and Condition obsolete and unreasonable to enforce; and (b) that the activity permitted under the variance will not have any financial affect or any other substantial adverse effect on the Owners or Occupants of the Project, and is consistent with the Community-Wide Standards. Any such variance shall be unenforceable and without any effect whatsoever unless reduced to writing and signed by every member of the then existing Board. No variance may be granted that is inconsistent with the Act. No variance may be granted that relates to the payment of Assessments, unless, after reasonable investigation under the circumstances, it clearly appears that the Owner is incapable of paying the Assessment and the Unit is being, or has been, transferred to a new Owner, either voluntarily or involuntarily, through foreclosure.

10.15 Hazardous Substances.

- (a) The Owners shall comply with applicable Environmental Laws (as defined below), and shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances (as defined below), on or within the Project, that are not properly controlled, safeguarded, and disposed of. No Owner shall do, or allow anyone else to do, anything affecting the Project that is in violation of any Environmental Law. The foregoing portion of this paragraph shall not apply to the presence, use, or storage on the Project of small quantities of Hazardous Substances that are generally recognized to be appropriate to the maintenance of a Unit or the Project.
- (b) Each Owner shall indemnify, defend, and hold the Master Association, and each and every other Owner, harmless from, and against, any and all claims and proceedings (whether brought by private party or governmental agency) for bodily injury, property damage, abatement or remediation, environmental damage or impairment, or any other injury or damage resulting from, or relating to, any Hazardous Substances located under, upon, or migrating into, under, from, or through the Project, which the Master Association or the other Owners may incur due to the actions or omissions of an indemnifying Owner. The foregoing indemnity shall apply: (i) when the release of the Hazardous Substances was caused by an indemnifying Owner or an Occupant; and (ii) whether or not the alleged liability is attributable to the handling, storage, generation, transportation, or disposal of Hazardous Substances on the Project. The obligations of each Owner under this Section 10.15 shall survive any subsequent sale by an indemnifying Owner.
- (c) For purposes of this Section 10.15, "Hazardous Substances" are those substances defined as a toxic or hazardous substance by Environmental Law, and the following substances: gasoline, kerosene, other flammable or toxic petroleum

products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde and radioactive materials. For purposes of this Section 10.15, "Environmental Law" means applicable federal laws and laws of the jurisdiction where the Project is located that relate to health, safety, or environmental protection.

## ARTICLE 11 INSURANCE

- 11.1 Insurance Requirement. The Master Association shall obtain insurance as required in this Master Declaration and as required by applicable law. The Master Association may obtain insurance that provides more or additional coverage than the insurance required in this Master Declaration. Different policies may be obtained from different insurance carriers, and standalone policies may be purchased instead of, or in addition to, embedded, included coverage, or endorsements to other policies.
- 11.2 Attached Dwellings. Notwithstanding anything in this Article 11 to the contrary, insurance obligations related to attached dwellings and common elements that are part of a Neighborhood Sub-Association shall be the responsibility and the obligation of that Neighborhood Sub-Association provided, however, that the Master Association may carry such insurance if the Neighborhood Sub-Association fails to do so. To the extent the Master Association bears any legal obligation for directly insuring any attached dwellings or common elements that are part of the Neighborhood Sub-Association, this Master Declaration shall constitute an assignment of such obligation to the Neighborhood Sub-Association. Each Neighborhood Sub-Association, by recording governing documents subject to this Master Declaration, hereby accepts such assignment.
- 11.3 Property Insurance.
- (a) Hazard Insurance.
- (i) Blanket Policy of Property Insurance. The Master Association shall maintain a blanket policy of property insurance covering the entire Project, to include the Common Area and Facilities and the physical structure of all attached dwellings, limited common areas appurtenant to such attached dwellings, fixtures, betterments, and the structures' service equipment, except to the extent such property is insured by a Neighborhood Sub-Association. Pursuant to § 57-8a-405(4) of the Act, the blanket policy of property insurance shall not apply to single-family detached dwellings that are not physically attached to any other dwelling or to a Common Area and Facilities structure. An Owner of a Unit that is a single-family detached dwelling shall be responsible to obtain property insurance coverage for his or her own Unit.
- (ii) The blanket policy shall exclude land and other items not normally and reasonably covered by such policies, including, without limitation, any detached single-family Unit. The blanket policy shall be an "all in" or "all inclusive" insurance, as those terms are used in the insurance industry, and shall include insurance for any fixture, improvement, or betterment installed in or to the Unit, or any Limited Common Areas or otherwise

permanent part of or affixed to Common Areas and Facilities, Units, or Limited Common Areas, including, but not limited to, floor coverings, cabinets, light fixtures, electrical fixtures, heating and plumbing fixtures, paint, wall coverings, and windows.

- (iii) At a minimum, the blanket policy shall afford protection against loss or damage by: (1) fire, windstorm, hail, riot, aircraft, vehicles, vandalism, smoke, and theft; and (2) all other perils normally covered by "special form" property coverage.
  - (iv) The blanket or guaranteed replacement cost policy shall be in an amount not less than one hundred percent (100%) of current replacement cost of all property covered by such policy (including the Units) at the time the insurance is purchased and at each renewal date. The actual replacement cost of the property shall be determined by using methods generally accepted in the insurance industry.
  - (v) The blanket policy shall include either of the following insurance endorsements to assure full insurable value replacement cost coverage: (1) a "Guaranteed Replacement Cost Endorsement" under which the insurer agrees to replace the insurable property, regardless of the cost; or (2) a "Replacement Cost Endorsement" under which the insurer agrees to pay up to one hundred percent (100%) of the property's insurable replacement cost, but not more. If the policy includes a coinsurance clause, it must include an "Agreed Amount Endorsement," which must waive or eliminate the requirement for coinsurance.
  - (vi) Each property policy that the Master Association is required to maintain shall also contain or provide for the following: (1) "Inflation Guard Endorsement," if available; (2) "Building Ordinance or Law Endorsement" (the endorsement must provide for contingent liability from the operation of building laws, demolition costs, and increased costs of reconstruction); and (3) "Equipment Breakdown," if the project has central heating or cooling, other equipment, or other applicable fixtures, equipment, or installations, which shall provide that the insurer's minimum liability per accident at least equals the lesser of two million dollars (\$2,000,000), or the insurable value of the building containing the equipment.
- (b) Owner Responsibility for Payment of Deductible. 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, or if the Owner is self-insured:
- (i) the Master Association's policy provides primary insurance coverage; and
  - (ii) notwithstanding Subsection 11.3(b)(i), and subject to Subsection 11.3(b)(3), the Owner is responsible for the Master Association's insurance deductible, and the property insurance portion of the Owner's

insurance policy applies to that portion of the loss attributable to the Master Association's insurance policy deductible.

(iii) As used in this Subsection (3):

(1) An Owner who owns a Unit that has suffered Unit Damage (as defined in the Act) as part of a Covered Loss (defined in the Act) is responsible for an amount calculated by applying the Unit Damage Percentage (defined in the Act) for that Unit to the amount of the deductible under the Master Association's property insurance policy.

(2) If an Owner does not pay the amount required under Subsection (11.3)(b)(iii)(2) within thirty (30) days after substantial completion of the repairs to the Unit or the Limited Common Area appurtenant to the Unit as may be applicable, the Master Association may levy an Assessment against the Owner for that amount.

(c) Flood Insurance.

(i) Except for the parts of the Project that are single-family detached Units, if any part of the 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, at a minimum, that portion of the Project located within the Special Flood Hazard Area. That policy shall cover any machinery and equipment that is not part of a building and all Common Area and Facilities within the Project ("Insurable Property") in an amount deemed appropriate, but not less than, the lesser of: (1) 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 (2) one hundred percent (100%) of the insurable value of the Insurable Property.

(ii) If the 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 to Common Areas and Facilities not otherwise covered by blanket property insurance.

(d) Earthquake Insurance. The Master Association may purchase earthquake insurance as the Board deems appropriate for Common Area and Facilities and buildings or structures for which the Master Association has a legal obligation to obtain property insurance. If the Board elects not to purchase earthquake insurance, the affirmative vote of a majority of the Owners present at the annual meeting shall be required to confirm this decision. If the majority of the Owners present at the annual meeting do not confirm the Board's decision to not purchase earthquake insurance, the Board shall purchase earthquake insurance within sixty (60) days of the vote.

- (e) Master Association's Obligation to Segregate Property Insurance Deductible. The Master Association shall keep segregated an amount equal to the Master Association's property insurance policy deductible, or \$10,000, whichever is less. This requirement shall not apply to any earthquake or flood insurance deductible.
  - (f) Master Association's Right to Not Tender Claims that are Under the Deductible. If, in the exercise of its business judgment, the Board determines that a covered loss is likely not to exceed the Master Association's property insurance policy deductible, and until it becomes apparent the covered loss exceeds the Master Association's property insurance deductible, and a claim is submitted to the Master Association's property insurance insurer: (i) the Owner's policy is considered the policy for primary coverage for any loss to the Owner's Unit, to the amount of the Master Association's policy deductible; (ii) the Master Association is responsible for any loss to any Common Area and Facilities; and (iii) an Owner who does not have a policy to cover the damage to that Owner's Unit is responsible for that damage and the Master Association may, as provided in section 11.3(b)(3)(ii), recover any payments the Master Association makes to remediate that Unit; and (iv) the Master Association need not tender the claim to the Master Association's insurer.
  - (g) Notice Requirement for Deductible for Policies Covering Attached Units. The Master Association shall provide notice to each Owner of an attached Unit or condominium of the Owner's obligation under this Article 11 for the Master Association's policy deductible, and of any change in the amount of the deductible. If the Master Association fails to provide notice of the initial deductible, it shall be responsible for the entire deductible in case of any loss. If the Master Association fails to provide 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. The failure to provide notice shall not invalidate or affect any other provision in this Master Declaration. Notwithstanding anything to the contrary herein, the obligations imposed by this Subsection 11.3(6) apply only to policies required pursuant to Utah Code Ann. § 57-8a-403(1).
  - (h) Neighborhood Sub-Association to Assume Insurance Obligations. A Neighborhood Sub-Association formed to operate and maintain dwellings and common property with a condominium form of ownership shall have the obligation to obtain insurance consistent with the requirements of the Utah Condominium Ownership Act (57-8-43).
- 11.4 Comprehensive General Liability ("CGL") Insurance. The Master Association shall obtain CGL insurance insuring the Master Association, the agents and employees of the Master Association, and the Owners, against liability incident to the use, repair, replacement, maintenance, or ownership of the Common Area and Facilities and the Owner's membership in the Master Association. The coverage limits under such policy shall not be less than two million dollars (\$2,000,000), covering all claims for death of, or injury to, any one individual, or property damage in any single occurrence. Such insurance shall contain a Severability of Interest Endorsement, or equivalent coverage, which would preclude the insurer from denying the claim of an Owner because of the negligent acts of the Master Association or another Owner.

- 11.5 Director's and Officer's Insurance. The Master Association shall obtain Director's and Officer's liability insurance protecting the Board, the officers of the Master Association, and the Master Association against claims of wrongful 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: (a) include coverage for volunteers and employees; (b) include coverage for monetary and non-monetary claims; (c) provide for the coverage of claims made under any fair housing law or similar state or federal statute, or that are based on any form of discrimination or civil rights claims; and (d) provide coverage for defamation. In the discretion of the Board, the policy may also include coverage for any Manager, and any employees of the Manager, and may provide that such coverage is secondary to any other policy that covers the Manager or any employees of the Manager.
- 11.6 Insurance Coverage for Theft and Embezzlement of Master Association Funds. The Master Association shall obtain insurance covering the theft or embezzlement of funds that shall: (a) provide coverage for an amount of not less than the sum of three months' regular Assessments in addition to the prior calendar year's highest monthly balance on all operating and reserve funds; and (b) provide coverage for theft or embezzlement of funds by: (i) Officers and Board members of the Master Association; (ii) employees and volunteers of the Master Association; (iii) any Manager of the Master Association; and (iv) officers, directors, and employees of any Manager of the Master Association.
- 11.7 Workers' Compensation Insurance. The Board shall purchase and maintain in effect workers' compensation insurance for all employees of the Master Association, to the extent that such insurance is required by law.
- 11.8 Certificates. Any insurer that has issued an insurance policy to the Master Association shall issue a certificate of insurance to the Master Association, and, upon written request, to any Owner or Lender.
- 11.9 Named Insured. The named insured, under any policy of insurance, shall be the Master Association. Subject to Sections 11.1 and 11.3(a)(1), each Owner shall also be an insured under all property and CGL insurance policies.
- 11.10 Master Association's Right to Negotiate All Claims and Losses and Receive Proceeds. Insurance proceeds for a loss under the Master Association's property insurance policy shall be payable to an Insurance Trustee (defined below), if one is designated, or to the Master Association, and shall not be payable to a holder of a security interest. An Insurance Trustee, if any is appointed, or the Master Association, shall hold any insurance proceeds in trust for the Master 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 Master 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 Master Association. If the property is not to be repaired or restored, then any proceeds remaining 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. The cost of repair or replacement of any Unit in excess of insurance proceeds and reserves is a Common Expense to the extent the Master Association is required, under

this Master Declaration or the law, to provide insurance coverage for the Unit. Each Owner hereby appoints the Master Association, or any Insurance Trustee, 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 an Owner. In the discretion of the Board, or upon written request executed by Owners holding fifty percent (50%) of the total Allocated Interests, the Board shall hire and appoint an insurance trustee ("Insurance Trustee"), with whom the Master Association shall enter into an insurance trust agreement, for the purpose of exercising such rights under this Section, as the Owners or Board (as the case may be) shall require.

- 11.11 Owner Act Cannot Void Coverage Under Any Policy. Unless an Owner is acting within the scope of the Owner's authority on behalf of, and under direct authorization of, the Master Association to terminate an insurance policy, an Owner's act or omission may not void an insurance policy or be a condition to recovery under a policy.
- 11.12 Waiver of Subrogation against Owners and the Master Association. All property and CGL policies must contain a waiver of subrogation by the insurer as to any claims against the Master Association, the Owners, any person residing with a Unit Owner if an Owner resides in the Unit, and the Master Association's agents and employees.
- 11.13 Right of Action. Nothing in this Master Declaration shall prevent an Owner suffering a loss as a result of damage to property from asserting a claim, either directly or through subrogation, for the loss against a Person at fault for the loss.
- 11.14 Applicable Law. This Master Declaration is specifically subjecting the Master Association to the applicable insurance requirements and provisions of Part 4 of the Utah Community Association Act, and any amendments thereto enacted by law. It is the intent of this Section that any future changes to the insurance law applicable to community associations shall apply to this Master Association.

## ARTICLE 12 EMINENT DOMAIN

- 12.1 Taking of Common Area. If the portion of the Common Area and Facilities is taken by eminent domain, or sold under threat thereof, is not comprised of or includes any Unit, the Board shall, as soon as practicable, cause the award to be utilized for the purpose of repairing or restoring that area in the Project adjacent to the taking, and the portion of the award not used for restoration shall be added to the general funds of the Master Association.
- 12.2 Taking of Entire Project. In the event the Project, in its entirety, is taken by eminent domain, or sold under threat thereof, the Project is terminated and the provisions related thereto in this Master Declaration shall apply.
- 12.3 Priority and Power of Attorney. Nothing contained in this Article 12 shall entitle an Owner to priority over any Lender under a lien encumbering the Owner's Unit as to any portion of any condemnation award allocated to such Unit. Each Owner hereby appoints

the Master Association as attorney-in-fact for the purpose of negotiations and settlement with the condemning authority for the acquisition of the Common Area, or any part thereof.

ARTICLE 13  
AMENDMENTS

- 13.1 General Amendment Requirements. Except as otherwise provided herein, and subject to the exception in Sections 20.7 and 20.11 herein, this Master Declaration may be amended only by an instrument in writing. Owners holding Allocated Interests totaling not less than sixty-seven percent (67%) of the total Allocated Interest must vote in favor of approving the amendment in a meeting of the Owners held for that purpose or by written consent. The vote of approval of any one Owner of a Unit is sufficient if there are multiple owners of the Unit.
- 13.2 Scope of Amendments. Subject to Article 20 herein, this Master Declaration may be amended to add new rights, restrictions, and obligations, or to remove or modify existing rights, restrictions, and obligations. The right to amend shall be broadly construed to permit any change to the rights, restrictions, obligations, and other terms in the Master Declaration. This Master Declaration may be amended to make a particular section of the Act applicable to the Master Association, including a section that would not otherwise be applicable to the Master Association.
- 13.3 Execution and Effective Date of Amendments. An amendment that has been adopted as provided in Section 13.1 shall be executed by the president of the Master Association and the secretary of the Master Association shall certify that the amendment has been approved and adopted and that the procedures and requirements necessary to amend the Master Declaration have been complied with. The amendment shall be effective when it is recorded in the office of the County Recorder of Wasatch County, Utah.
- 13.4 Changes to Plat or Boundaries of the Master Association. Subject to Sections 20.5, 20.7 and 20.11 herein, the Master Association may adopt an amended plat, supplemental plat, correction to the Plat, or boundary agreement related to any boundary in or around the Project, including any boundary to any Unit, or Units, upon the approval by vote of sixty-seven percent (67%) of Owners in the same manner as required to amend this Master Declaration. Any such plat may make material changes to the existing or prior Plat including deleting, adding, or modifying Common Area and Facilities, or other changes in the layout of the Project. If any such amendment affects any boundary of a Unit, that Unit Owner must consent. If the approval required herein is obtained, each and every other Owner: (a) shall sign, consent to, and execute any further documents required for the finalization, recording, and/or governmental approval of any such document regardless of whether they approved of, or consented to, the change in the Plat; and (b) grants the Master Association power of attorney to sign necessary documents on that Owner's behalf as necessary for the agreement, amendment, or correction.
- 13.5 Amendment to Conform to Law. The Board may, without the approval of the Owners, amend this Master Declaration to conform it to any applicable legal requirements otherwise applicable to the Master Association, but only to the extent necessary to eliminate any conflict with the law, to add provisions required by law, or to add provisions that embody rights or obligations otherwise binding on the applicable parties

as a matter of law. This procedure may also be used to change the Master Declaration to add or conform to any requirements necessary for Owners to obtain government insured or guaranteed financing such as through VA, FHA, FNMA, or similar programs, or to comply with any directive of any federal, state, or local government agency. The following procedures and requirements must be complied with for any such amendment:

- (a) The members of the Board must unanimously agree to the proposed amendment prior to the time it is recorded.
- (b) The Board must provide to the Owners: (i) the proposed amendment instrument; (ii) the language of this section of the Master Declaration; (iii) the law that conflicts with the existing Master Declaration language or the provisions that must be complied with to permit owners to obtain financing; (iv) the attorney opinion letter required for the amendment; and (v) a notice in which the Master Association: (1) notifies the Owner that it intends to amend the Master Declaration pursuant to this section; (2) provides the Owner a right to object to the amendment within thirty (30) days; and (3) provides instructions on how, when, and where to properly return the objection. The Board may include further explanation, information, and recommendations regarding the proposed amendment in the information provided to the Owners.
- (c) Such an amendment shall be effective upon the recording of the instrument in the office of the recorder of Wasatch County.

ARTICLE 14  
INTERPRETATION, CONSTRUCTION, AND APPLICATION OF MASTER  
DECLARATION

- 14.1 Conflicting Provisions. In the case of any conflict between Utah law and any of the Governing Documents, the order of priority from the highest to the lowest shall be Utah law, this Master Declaration, the Plats, the Articles, the Bylaws, and then the Rules. If there is a conflict between the Governing Documents and any Additional Covenants (or rules or policies adopted pursuant to any such Additional Covenants), the Governing Documents shall control.
- 14.2 Interpretation of Master Declaration and Applicability of the Act. The Declarant intends that the Project shall be governed by the Act, except where (in compliance with the Act) the Master Association has included specific provisions in this Master Declaration that legally vary, supersede, or supplement the Act, in which event such specific provisions of this Master Declaration that are contrary to the Act shall govern the Project to the extent allowed by the Act. In the case of any conflict between this Master Declaration and the Act, to the extent the Act does not legally allow this Master Declaration to contain provisions contrary to the Act, the Act shall control and this Master Declaration shall be deemed modified accordingly, but only to the extent necessary to come into compliance with the Act.
- 14.3 Cumulative Remedies. All rights, options, and remedies of the Master Association and the Owners in the Governing Documents are cumulative, and none shall be exclusive of any other, and the Master Association and the Owners shall have the right to pursue any

one or all of such rights, options and remedies, or any other remedy or relief that may be provided by law; simultaneously, consecutively, or alternatively.

- 14.4 Severability. Invalidation of any one or a portion of the Terms and Conditions by judgment or court order shall in no way affect any other Terms and Conditions, all of which shall remain in full force and effect.
- 14.5 Construction. The provisions of this Master Declaration shall be liberally construed to effectuate its purpose of creating a plan for the development of a mix-use master-planned community, and for the maintenance of the Project. The article and section headings have been inserted for convenience only, and shall not be considered or referred to in resolving questions of interpretation or construction. References in this Master Declaration to article and section numbers herein, unless otherwise expressly provided, are to the article and section in this Master Declaration. To the extent permitted by law, the provisions of the Governing Documents shall not be interpreted for or against, or strictly for or against, the Master Association, any Owner, or any other Person subject to their terms.
- 14.6 Applicable Law. Except as otherwise expressly provided in this Master Declaration related to Part 4 of the Act, this Master Association is specifically made subject to the Act and the law as it is constituted, and exists at the time this Master Declaration is recorded. Amendments to the Act after the date of recording of this Master Declaration shall not be applicable to the Master Association or the Project unless they are applicable as a matter of law, or unless the Master Association makes those amendments applicable by amendment to the Master Declaration.
- 14.7 Gender and Number. Whenever the context of the Governing Documents require, the singular shall include the plural, and vice versa, and the masculine shall include the feminine and the neuter, and vice versa.
- 14.8 Effect of Master Declaration. This Master Declaration is made for the purposes set forth in the Recitals in this Master Declaration, and the Master Association makes no warranties or representations, express or implied, as to the binding effect or enforceability of all or any portion of this Master Declaration, or as to the compliance of any of these provisions with public laws, ordinances, regulations, and the like, applicable thereto. The Master Association shall have no liability whatsoever if any Term and Condition is determined to be unenforceable in whole or in part for any reason.

## ARTICLE 15

### NOTICE

- 15.1 Notices. Any notice to be given to an Owner, a Lender, or the Master Association under the provisions of the Governing Documents shall be in writing and shall be delivered as follows:
- (a) Notice to an Owner from the Master Association.
- (i) Notice to an Owner shall be effective upon the satisfaction of any of the following delivery methods:
- (1) by a written notice delivered personally to the Owner, which shall be effective upon delivery;

- (2) by a written notice placed in the United States mail, first-class postage prepaid, to the most recent address furnished by such Owner, in writing, to the Master Association for the purpose of giving notice, or, if no such address shall have been furnished, to the street address of such Owner's Unit. Any notice so deposited in the mail shall be deemed delivered seventy-two (72) hours after such deposit;
  - (3) by email correspondence to an Owner: (a) sent to an email address provided by the Owner for the purpose of Master Association communications, or (b) emailed to an email address from which the Owner has communicated related to Master Association matters, so long as no indication is received that the email may not have been delivered. Any notice sent by email shall be deemed delivered immediately upon sending;
  - (4) by facsimile (whether to a machine or to an electronic receiving unit) to an Owner sent to a facsimile number provided by the Owner for the purpose of Master Association communications so long as no indication is received that the facsimile may not have been delivered. Any notice sent by facsimile shall be deemed delivered immediately upon sending; or
  - (5) by any other method that is fair and reasonable as provided for in the Act, or otherwise provided for by law.
- (ii) Notwithstanding anything to the contrary in this Section 15.1, the Master Association shall send all notices to an owner by U.S. Mail if such Owner, by written demand, demands to receive notices from the Master Association by mail.
  - (iii) In the case of co-Owners, notice to one of the co-Owners is effective as notice to all such co-Owners. The Master Association shall not be required to give more than one notice per Unit. In case any two co-Owners send conflicting notice demands, notice shall be proper if mailed by first-class mail to the Unit address.
  - (iv) In case posting of a notice on the Unit is permitted, such posting is effective when posted on the front or primary access door to the Unit and any such posting may be removed by the Master Association the sooner of either (1) two (2) days after the event or action for which notice was given; or (2) ten (10) days after the posting.
- (b) Notice to a Lender. Notice to a Lender shall be delivered by United States mail, first-class postage prepaid, to the most recent address furnished by such Lender, in writing, to the Master Association for the purpose of notice or, if no such address shall have been furnished, to any office of the Lender. Any address for a Lender that is found on a document recorded on the title of a Unit shall be deemed an office of the Lender. Any notice so deposited in the mail shall be deemed delivered seventy-two (72) hours after such deposit.

- (c) Notice to Master Association from an Owner. An Owner's notice to the Master Association shall be effective upon the satisfaction of any of the following delivery methods:
- (i) by a written notice delivered personally to the Manager or President of the Master Association, which shall be effective upon delivery;
  - (ii) by a written notice placed in the United States mail, first-class postage prepaid, to the current registered business address of the Master Association. Any notice so deposited in the mail shall be deemed delivered seventy-two (72) hours after such deposit;
  - (iii) by written email correspondence to the Master Association: (1) that is sent to an email address provided by the Master Association in the prior twelve (12) months for the purpose of Master Association communications, or (2) that is emailed to an email address from which the Manager or the President of the Master Association has communicated related to Master Association matters, and so long as no indication is received that the email may not have been delivered or received. Any notice sent by email shall be deemed delivered seventy-two (72) hours after it is sent; or
  - (iv) by facsimile (whether to a machine or by other means) to the Master Association sent to a facsimile number provided by the Master Association for the purpose of Master Association communications and so long as no indication is received that the facsimile may not have been delivered or received. Any notice sent by facsimile shall be deemed delivered seventy-two (72) hours after it is sent.

ARTICLE 16  
ATTORNEYS' FEES AND COSTS

16.1 Legal Costs Associated with Disputes with Owners.

- (a) Owners Liable for Fees Incurred in Dispute. If the Master Association utilizes legal counsel to enforce any Term and Condition after notice to the Owner that the Master Association intends to enforce the Term and Condition, or after the Owner communicates or demonstrates an intent not to comply with the Term and Condition, the Master Association may assess all attorneys' fees and costs associated with such enforcement to the Owner as a Specific Assessment, regardless of whether a lawsuit is initiated or not.
- (b) Costs. The term "costs," as used in this section, shall include all costs, including copying costs, deposition costs, expert witness fees, investigative costs, service costs, and filing fees paid to courts. "Costs" is specifically defined in this Master Declaration to be broader and to include items that are not included in "costs", as the term is used in the Utah Rules of Civil Procedure.
- (c) Exception to Owner's Liability for Fees and Costs. If, related to a request of an Owner for direction on the application of a Term and Condition, the Master Association incurs legal fees or costs related to the interpretation and application of a Term and Condition that the Master Association could not establish an initial position on without having incurred the fees and costs, or that results in a

substantial modification to a prior position taken by the Master Association, then those fees or costs shall not be assessed to any Owner and shall be paid by the Master Association. This provision shall not apply if a lawsuit is currently pending with regard to the Owner, and the issues arise as part of the lawsuit.

ARTICLE 17  
RESERVES

- 17.1 Requirement for Reserves. Subject to the exemption Section 20.14 herein, the Master Association shall obtain a reserve analysis and shall maintain a reserve fund for the maintenance, repair, and replacement of the Common Area and Facilities, pursuant to the following provisions:
- (a) Collection. Reserve funds may be collected as part of regular or Special Assessments or by Specific Assessments if such funds are intended to benefit a particular Neighborhood or particular group of Units.
  - (b) Amount. In formulating the Master Association's annual budget, the Master Association shall include a reserve fund line item in an amount the Board determines, based on the reserve analysis and any other factors deemed to be material by the Board, in its business judgment, to be prudent. For purposes of this Section 17.1, a reserve fund line item means the line item in the Master Association's budget that identifies the amount to be placed into the reserve fund.
  - (c) Owner Veto. Within forty-five (45) days after the day on which the Master Association adopts the budget, the Owners may veto the reserve fund line item by a fifty-one percent (51%) vote of the total Allocated Interests in the Master Association at a special meeting called by the Owners for the purpose of voting whether to veto a reserve fund line item. If the Owners veto a reserve fund line item and a reserve fund line item exists in a previously approved annual budget of the Master Association that was not vetoed, the Master Association shall fund the reserve account in accordance with that prior reserve fund line item.
  - (d) Surplus Monies Applied to Reserves. The Master Association may retain surplus Master Association money as additional reserves rather than refund it to the Owners or credit it to future Assessments.
  - (e) Segregation of Reserves. The Master Association shall segregate money held for reserves from regular operating and other accounts.
  - (f) Reserve Analysis. The Master Association shall cause a reserve analysis with an onsite evaluation to be conducted no less frequently than every six (6) years. The Master Association shall review and, if necessary, update a previously conducted reserve analysis no less frequently than every three (3) years. The Reserve analysis shall include, at a minimum: (i) a list of the components identified in the reserve analysis that will reasonably require reserve funds; (ii) a statement of the probable remaining useful life, as of the date of the reserve analysis, of each component identified in the reserve analysis; (iii) an estimate of the cost to repair, replace, or restore each component identified in the reserve analysis; (iv) an estimate of the total annual contribution to a reserve fund necessary to meet the cost to repair, replace, or restore each component identified in the reserve analysis

during the component's useful life and at the end of the component's useful life; and (v) a reserve funding plan that recommends how the Master Association may fund the annual contribution set forth in the reserve analysis. The reserve analysis and updates shall project a minimum of thirty (30) years into the future.

- (g) Qualifications for Person Preparing Reserve Analysis. The reserve analysis shall be prepared by a Person with: (i) experience in current building technologies; (ii) a solid working knowledge of building-cost estimating and life-cycle costing for facilities; and (iii) the tools and knowledge to prepare a report. Preferably, the Person preparing the reserve study shall have the RS (Reserve Specialist) designation available through the Community Association Institute (CAI), the PRA (Professional Reserve Analyst) designation offered through the Association of Professional Reserve Analysts (APRA), or other designations by similar professional associations establishing that the Person has some formal training related to preparing a reserve analysis.
- (h) Summary and Copies of Reserve Analysis. The Master Association shall annually provide Owners a summary of the most recent reserve analysis or update and provide an opportunity for Owners to discuss reserves and to vote on how to fund the reserves and in what amount. A copy posted on the Master Association's website, if available shall satisfy the requirement of this subsection. The Master Association shall provide a copy of the complete reserve analysis or update to an Owner who makes a written request for a copy.

## ARTICLE 18 LEASING AND NON-OWNER OCCUPANCY

- 18.1 Master Declaration and Rules Govern Non-Owner Occupancy. Notwithstanding anything to the contrary in this Declaration or in the Bylaws, any leasing and non-owner occupancy of a Residential Unit shall be governed by this Article 18, the Rules, and procedures adopted as provided herein.
- 18.2 Definitions. For the purpose of Article 18, the following definitions shall apply:
- (a) "Non-Owner Occupied" means:
- (i) For a Residential Unit owned in whole or in part by a natural Person or Persons, the Unit is occupied by someone when no individual Owner occupies the Unit as the individual Owner's primary residence; or
  - (ii) For a Residential Unit owned entirely by one or more entities or trusts, the Unit is occupied by anyone.
- (b) "Family Member" means:
- (i) the parent, sibling, or child of an Owner and that Owner's spouse and/or children, or
  - (ii) in the case of a Unit owned by a trust or other entity created for estate planning purposes, a Person occupying the Unit if the trust or other estate planning entity that owns the Unit was created for the estate of: (1) a current Occupant of the Unit; or (2) the parent, child, or sibling of the current Occupant of the Unit.

- 18.3 Restriction on Leasing and Non-Owner Occupancy. Subject to the requirements in Sections 18.4 and 18.5, any Residential Unit may be leased or Non-Owner Occupied.
- 18.4 Permitted Rules. The Board may adopt Rules requiring:
- (a) reporting and procedural requirements related to Non-Owner Occupied Units and the Occupants of those Units other than those found in this Article 18, including requiring informational forms to be filled out by Owners and Occupants identifying Occupant vehicles, Occupant contact information, and the like.
  - (b) other reasonable administrative provisions consistent with, and as it deems appropriate, to enforce the requirements of this Master Declaration.
- 18.5 Requirements for Leasing and Occupancy of Non-Owner Occupied Residential Units. Owners of Residential Units must comply with the following provisions:
- (a) Any lease or agreement for otherwise allowable occupancy of Non-Owner Occupied Residential Unit must be in writing, must be for an initial term of at least three (3) months, and shall provide as a term of the agreement that the Occupant shall comply with the Governing Documents, and that any failure to comply shall be a default under the lease or agreement. If a lease or agreement for occupancy of a Non-Owner Occupied Residential Unit (whether in writing or not) does not include these provisions, they shall nonetheless be deemed to be part of the lease or agreement and binding on the Owner and the Occupant;
  - (b) If required in the Rules or requested by the Board, a copy of any lease or other agreement for non-owner occupancy shall be delivered to the Master Association within the time period provided for in the Rules or required by the Board;
  - (c) An Occupant may not occupy any Unit for transient, short-term (less than three (3) months), hotel, resort, vacation, or seasonal use (whether for pay or not);
  - (d) Except as an invitee of an Owner while the Owner is occupying the Unit, daily and weekly occupancy by Non-Owner Occupants is prohibited (whether for pay or not); and
  - (e) The Owner of a Unit shall be responsible for the Occupant's or Occupant's invitee compliance with the Governing Documents. In addition to any other remedy for non-compliance with this Master Declaration, the Master Association shall have the right to initiate a forcible entry and unlawful detainer action, or similar such action, with the purpose of removing the offending Occupant. The Master Association, the Board, and the Manager shall not have any liability for any action taken pursuant to this Subsection 18.5(e), and the Owner shall indemnify and pay the defense costs of the Master Association, the Board, and the Manager arising from any claim related to any action taken in good faith by any of them pursuant to this Subsection.
- 18.6 Exceptions for Family Members. If only Family Members occupy a Residential Unit, then notwithstanding anything to the contrary herein:
- (a) Subsections 18.5(a), 18.5(c), and 18.5(d) above shall not apply to that occupancy;

- (b) No written agreement regarding occupancy needs to be created between the Family Member and the Owner; and
  - (c) Any written agreement regarding occupancy, to the extent it exists, may not be requested by the Board until an Occupant has violated a provision of the Governing Documents, and, if requested, may only be requested related to remedying or taking action as a result of such a violation.
- 18.7 Exceptions for Future Resort Development Phases. Notwithstanding anything to the contrary in this Article, the requirements and restrictions set forth in Sections 18.3 through 18.5 above shall not apply to future phases annexed into the Project pursuant to Section 2.3 above by the Declarant as a resort development.

#### ARTICLE 19 GENERAL PROVISIONS

- 19.1 Enforcement. The Master Association or any Owner shall have the right to enforce, by proceedings at law or in equity, all Terms and Conditions, including the right to prevent the violation of any such Terms and Conditions, and the right to recover damages and other sums for such violation.
- 19.2 No Liability of Officers. To the fullest extent permitted by applicable law, neither the Board nor any officer of the Master Association shall be liable to any Owner or the Master Association for any damage, loss, or prejudice suffered or claimed on account of any decision, approval or disapproval, course of action, act, omission, error or negligence.
- 19.3 Use of Funds Collected by the Master Association. All funds collected by the Master Association, including, specifically, Assessments and contributions to the Master Association paid by the Owners, shall be held by the Master Association in a fiduciary capacity to be expended in their entirety for nonprofit purposes of the Master Association in managing, maintaining, and preserving the Common Area and Facilities, and for other permitted purposes as set forth in this Master Declaration. No part of said funds shall inure to the benefit of any Owner (other than as a result of the Master Association managing, maintaining, and preserving the Common Area and Facilities, and other than as a result of expenditures made for other permitted purposes as set forth in this Master Declaration).
- 19.4 Owner Liability and Indemnification. Each Owner shall be liable to the other Owners and to the Master Association for any damage to the Common Area and Facilities that may be sustained by reason of the negligent or intentional act that Owner, or any intentional or negligent act of any Occupant of that Owner's Unit, to the extent such losses and damages are either under the insurance deductible of the Master Association or not covered by the Master Association's insurance. Each Owner, by acceptance of a deed to a Unit, agrees to indemnify each and every other Owner and Occupant in such other Owner's Unit, and to hold such other Persons harmless from, and to defend against, any claim of any Person for personal injury or property damage occurring within that Owner's Unit, except to the extent that: (a) such injury, damage, or claim is covered and defended by the Master Association's or such other Owner's liability insurance carrier; or

(b) the injury or damage occurred by reason of the intentional act of the Master Association.

19.5 Areas of Owner Responsibility. Except as otherwise may be provided in a Neighborhood Sub-Association's governing documents, and except as provided in Subsection 19.5(a) below, each Owner shall be responsible for the maintenance, repair, and upkeep of his/her Unit. If an Owner's Unit includes a Lot, the Owner shall be responsible for the landscape maintenance for his/her Lot and, also, for the maintenance and upkeep of any landscaped park strip area adjacent to the Owner's Lot, unless the Master Association assumes the obligation for maintenance of the park strip.

(a) Notwithstanding anything to the contrary in this Master Declaration, the Master Association shall have the obligation to maintain in accordance with the Community-Wide Standard the landscaping, driveways, entry walkways, and the exterior surfaces, excluding the roofs, for the Units in Phase I Overlook Village, Lots 1-39 and T1-T8. The Master Association shall be responsible for reasonable snow removal for driveways and entry walkways (up to the front door, including the front porch steps, if any) in the Overlook Village Neighborhood.

(b) For purposes of Subsection 19.5(a) above, exterior surfaces for Overlook Village Units shall not include: roofs, exterior doors, door frames, door jambs and casings, door hardware, thresholds, any exterior door weather-stripping, garage doors, garage door casing and molding, garage door hardware and openers, windows, window frames, window casing, window hardware, window weather-stripping, exterior light fixtures, exterior electrical outlets, lightbulbs, HVAC installations, plumbing installations, and electrical installations. However, the Master Association shall be responsible for staining or painting of the exterior side of exterior doors and window frames (if constructed of wood).

19.6 Consent, Power of Attorney, Waiver. By acceptance of a deed, lease, or other conveyance of an interest in a Unit, each Owner and Occupant consents to the rights reserved to the Declarant and the Master Association in this Master Declaration, including, but not limited to, the right to prepare, execute, file, process, and record necessary and appropriate documents and other items to establish and grant easements, and to make necessary and appropriate amendments of this Master Declaration, the Plat, and the Bylaws. By such acceptance, each Owner and Occupant agrees to execute all documents and to do all other things as may be necessary or convenient to effect the same. Such acceptance shall be deemed an appointment of the Master Association, with full right of substitution, as the attorney-in-fact of such Owner or Occupant to execute such documents and to do such things on such Owner's or Occupant's behalf. Such appointment, being coupled with an interest, shall be irrevocable for the specific period of the Master Association's reserved rights as set forth in this Master Declaration, and shall not be affected by the disability of any such Owner or Occupant.

19.7 Security. Neither the Declarant nor the Master Association, in any way, shall be considered an insurer, guarantor, or provider of security from criminal conduct within, or relating to, the Project. Neither the Declarant nor the Master Association shall be liable for any loss or damage by reason of criminal conduct arising, for any reason, including any failure to provide security or any ineffectiveness of any security measures

undertaken. Each and every Owner and Occupant in the Project acknowledges that neither the Declarant nor the Master Association has any duty to any Owner or Occupant related to security or criminal conduct, and further acknowledges that no duty is owed to anyone such as that of a landlord or retail business. By taking title to a Unit and/or residing in the Project, Owners and Occupants agree that neither the Declarant, nor the Master Association, nor the Board are insurers of the safety or well-being of Owners or Occupants or of their personal property as it relates to criminal conduct, and that each Owner or Occupant specifically waives any such claim and assumes all risks for loss or damage to Persons or property resulting from criminal conduct, to the extent any such damages are not covered by insurance.

- 19.8 Reasonable Accommodations. Notwithstanding anything to the contrary in this Master Declaration, the Master Association, upon receipt of a written opinion from its counsel that such action is required, may make or permit reasonable accommodations or modifications to the Project that are otherwise prohibited by the Governing Documents, as required under Title VIII of the Civil Rights Act of 1968 (the Fair Housing Act) as amended, to accommodate an Owner or Occupant with a disability (as defined by federal law at the time the accommodation is requested). Reasonable accommodations or modifications may include modifications to a Unit, the Common Area and Facilities, or deviations from provision of the Governing Documents. Any such modification and accommodation made under this section shall not act as a waiver of the provisions of the Governing Documents with regard to anyone else.
- 19.9 No Representations and Warranties. **EACH OWNER AND OCCUPANT UNDERSTANDS, AGREES, AND ACKNOWLEDGES THROUGH TAKING TITLE OR RESIDING IN THE PROJECT THAT THE MASTER ASSOCIATION AND THE BOARD HAVE NOT MADE ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND RELATED TO THE PROJECT, AND THAT EACH OWNER OR OCCUPANT HAS NOT RELIED UPON ANY REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY, OR FITNESS FOR ANY PARTICULAR PURPOSE, RELATIVE TO THE PROJECT.**

#### ARTICLE 20 DECLARANT RIGHTS

- 20.1 Special Declarant Rights. Notwithstanding any other provisions in the Governing Documents to the contrary, the Declarant shall have all rights and powers provided for in this Article 20. If any other article in this Master Declaration contains the words “notwithstanding anything to the contrary,” or words of similar import, the article shall all nonetheless be subject to the terms in this Article 20.
- 20.2 Right to Appoint the Board During Declarant Control Period. The Declarant shall have the right to appoint and remove all Board Members during the Declarant Control Period. In the appointment of Board Members, the Declarant shall not be bound by any qualifications for Board Members in the Governing Documents.
- 20.3 Declarant Control Period. For purposes of this Article 20, and as used in this Master Declaration, the “Declarant Control Period” shall mean and refer to the period of time during which the Declarant owns any land within the Project subject to the Development

- Agreement or identified in the master plan for the Project. Pursuant to Utah Code Ann. § 16-6a-801(2)(b)(i), during the Declarant Control Period, the Declarant is authorized to exercise the power and control of all decision-making ability or authority for the Master Association and/or the Project. The Declarant shall determine whether to hire professional management during the Declarant Control Period.
- 20.4 Easement Rights. The Declarant shall have, and hereby retains, an easement for access over, under, across, and through the entire Project, and may utilize, allow anyone else to utilize, or may grant easements over, under, across, and through any easement right reserved to anyone in the Master Declaration.
- 20.5 Right to Amend Plat. Subject to necessary approvals from any applicable municipality or government agency, the Declarant shall have the right to amend, change, or modify any Plat, subject only to the requirement that the Declarant get approval from any Owner of a Unit that has any boundary modified by the Plat. During the Declarant Control Period, no Plat may be amended without the written authorization of the Declarant.
- 20.6 Assessment Exemption. The Declarant shall be exempt from any Assessment on any unoccupied Unit (regular or special).
- 20.7 Right to Amend Master Declaration, Bylaws, Articles of Incorporation, and Rules. Until the expiration of the Declarant Control Period, the Declarant shall have the right to amend, revise, and modify this Master Declaration, the Bylaws, Articles of Incorporation, and the Rules in any way, and at any time, including adding, removing, or changing substantive and material provisions, without any additional approvals from anyone, including, but not limited to, the Owners. Any such amendment to the Bylaws or Master Declaration shall be effective upon the recordation by the Declarant of an amendment duly signed by an authorized officer of the Declarant, with such signature acknowledged. When recorded, any such amendment shall be binding upon the Project and all Persons having an interest therein, including Owners. Additionally, during the Declarant Control Period, neither this Master Declaration, the Bylaws, the Rules, nor the Design Guidelines may be amended without the written authorization of the Declarant.
- 20.8 Expansion of Project/Additional Land. The Declarant may add land to or withdraw land from the Project, and expand or contract the Project at any time, and for any reason.
- 20.9 Assignment of Special Declarant Rights. The Declarant, at any time, by recording a written notice, may assign or transfer all or some of its control, power, authority, or decision-making ability to the Master Association, or any other Person, prior to the end of the Declarant Control Period. In the case of the abandonment of the Project by the Declarant, the cessation of business by the Declarant, or the foreclosure of any undeveloped property that is subject to the provisions of this Master Declaration, the rights of the Declarant, as provided for in this Master Declaration, may be exercised by any owner of the undeveloped land within the project or to be expanded into the Project.
- 20.10 Exceptions from Use Restrictions. The Declarant shall not be bound by any use restriction in the Master Declaration as it relates to the Units owned by the Declarant.
- 20.11 No Modification of Declarant Rights. Any Declarant Rights in the Governing Documents and, specifically, in this Article 20, shall not be substantively or procedurally altered without the written consent of the Declarant during the Declarant Control Period

after which time the Declarant's approval shall no longer be required. Any document or amendment attempted without obtaining proper consent shall be *void ab initio* to the extent it attempts to alter the rights of the Declarant or any provision of Article 20, without the consent of the Declarant. Any consent to waive, change, or alter any provisions of Article 20 by any future Declarant (as a result of any voluntary or involuntary assignment of Declarant rights) shall effect a change to those provisions only as to that Declarant and shall not be applicable to any prior Declarant without that prior Declarant's specific consent.

- 20.12 Use of Units and Common Areas and Facilities for Sales Activities. During the Declarant Control Period, the Declarant shall have the right to use any Unit owned by it, and any part of the Common Areas and Facilities in furtherance of any activities designed to accomplish or facilitate construction, improvement and sale of all Units owned by the Declarant or to be added to the Project, and the construction and improvement of all Common Areas and Facilities as the Declarant, from time to time, may desire. The Declarant shall have the right to maintain one or more sales offices. Such offices may be located on any Unit with the permission of the Owner of that Unit, who may be the Declarant, or in one or more separate structures, trailers, or facilities placed in the Project for the purpose of aiding the Declarant's sales efforts, or any combination of the foregoing. The Declarant shall also have the right to maintain any number and size of promotional, advertising, or directional signs, banners, or similar structures or devices at any place or places in the Project. The Declarant shall also have the right to designate by signs or otherwise any street or other parking as parking for sales only, or to otherwise restrict and use any Common Area parking. The Declarant shall have the right from time to time to relocate, move, remove, or add to any of its sales offices, parking restrictions, signs, banners, or similar structures or devices.
- 20.13 Facilities Open to the Public. The Declarant shall have the right to establish certain facilities and areas within the Project for the use and enjoyment of the public. Such facilities and areas may include, by way of example, open space, trails, paths, parks, and other neighborhood areas conducive to public gatherings. The Declarant may designate such facilities and areas as open to the public at the time the same is made the responsibility of the Master Association, or the Board may so designate at any time thereafter.
- 20.14 Right to Use Common Area and Facilities for Special Events. The Declarant may use the Common Area and Facilities to sponsor special events for charitable, philanthropic, political, or marketing purposes, subject to the following conditions: (a) the availability of the Common Area and Facilities; (b) payment of costs and expenses incurred, and indemnification of the Master Association against any loss or damage resulting from the special event; (c) return of the Common Area and Facilities in the same condition as existed prior to the special event.
- 20.15 Exemption from Service Provider and Vendor Conflict Provision. The restrictions set forth in Section 5.12 of this Master Declaration shall not apply to service providers or vendors engaged by the Master Association during the Declarant Control Period.

- 20.16 Declarant Rights Do Not Impose Obligations. The Declarant Rights provided for in this Article 20 shall not be construed to impose any obligation, legal or equitable, related to the issues to which they might apply. The Master Association and each Owner, by purchasing a Unit, waive and disclaim any such duty, and affirmatively acknowledge that no such duty exists or should be imposed as a result of the Special Declarant Rights.
- 20.17 Declarant Exemption from Statutory Obligations. Pursuant to § 57-8a-217(6) of the Act, Declarant is hereby exempt from the provisions of § 57-8a-217 of the Act. Pursuant to § 57-8a-211(10) of the Act and Article 17 herein, § 57-8a-211(2)-(9) of the Act shall not apply or have any effect during the Declarant Control Period, and, as allowed specifically by law, the Declarant shall have no duty whatsoever to obtain a Reserve Analysis or to fund any Reserve Fund during the Declarant Control Period.
- 20.18 Declarant Exemption from Board Member Compensation Prohibition. Notwithstanding anything in this Declaration or the Bylaws to the contrary, during the Declarant Control Period, some or all of the Board Members may receive reasonable compensation, approved by the Declarant, for their services, as Board Members and/or Officers, for the Association.

## ARTICLE 21

### CONFLICT AND LITIGATION AVOIDANCE AND RESOLUTION

- 21.1 Statement of Intent. Every Owner is capable of obtaining an inspection and is permitted to perform, or pay someone else to perform, any inspection on any Unit that Owner is taking title, or any aspect of the Project; all prior to taking title to a Unit. Having had the ability to inspect prior to taking title to a Unit, and having paid market price for a Unit in the condition it and other Units and the Common Areas and Facilities are in at the time of taking title, it is acknowledged that it is unfair and improper thereafter to seek to have the Declarant and/or the Builder, or any subcontractor performing work in the Project, change, upgrade, or add additional work to the Project outside of any express warranty obligation. Moreover, the Owners (by taking title to a Unit) and the Declarant acknowledge and agree that litigation is an undesirable method of resolving certain conflicts in that it is slow, expensive, uncertain, and can often negatively impact the sale value and ability to obtain financing for taking title of Unit for years, unfairly prejudicing those Owners who must sell or who want to sell their respective Units during any period when litigation is pending. For this reason, the Owners, by taking title to a Unit, and the Declarant, agree and acknowledge that certain disputes simply shall not be pursued, to the extent permitted by law, and that other disputes shall be pursued only through certain specific alternative dispute resolution mechanisms, and only after full disclosure, right to cure periods, and knowing approval of the Owners. Consistent with this dispute avoidance intent and mandate, and in an effort to provide an avenue of recovery against the party responsible for faulty construction, the Declarant may obtain and provide warranties to the Master Association from subcontractors that the Master Association may enforce related to the development and construction of the Project. It is the intent of the parties hereto, as agreed to by the Owners by and upon the taking title of a Unit, that these warranties (from subcontractors), if they are obtained, whatever they might cover and whomever they are from, are the sole remedy to the extent permitted by law, in case of any defects or damages of any kind arising from, or related to, construction or development of the Project. The intent of this Article 21 is to eliminate, to the extent

possible, claims against or involving the Declarant, and claims related to the construction of the Development Improvements, the Common Area and Facilities, and the Units in the Project, and, when and if any such claim is permitted as a matter of law or pursuant to this Master Declaration, to ensure that every opportunity is made to resolve the claim outside of litigation. This effort shall include, but not be limited to, the right to cure and the requirements for mediation and arbitration.

- 21.2 Master Association Warranties. The Declarant may, but is not obligated to, provide for certain warranties from subcontractors to the Master Association related to the construction of the Project. The Master Association shall have the right, as provided for in any such warranties, to directly enforce and seek performance of these warranties from the subcontractors who performed the work in the construction of the Project. There is no guarantee or warranty by the Declarant that any warranties will be provided or that the warranties will cover any particular component or aspect of the Project.
- 21.3 Owner Warranties. The Declarant may, but is not obligated to, provide certain warranties to the Owners related to the Units constructed by the Declarant or Builder. The first Owner of a Unit to whom any warranty is issued or with whom a legal warranty arises, and only that Owner, shall have the right to directly enforce and seek performance from the Declarant of any terms of the warranty and only consistent with the warranty itself. The Master Association shall have no right to seek the performance of, or take assignment of any rights in any warranties from, the Declarant to an Owner, and the Owner shall have no right to assign any rights of any kind to the Master Association related to pursuing litigation against the Declarant.
- 21.4 Waiver of Subrogation and Release. The Master Association and each Owner waives any right to subrogation against the Declarant and the Builder in the Project. This waiver shall be broadly construed and applied to waive, among other things, any attempt by any insurer of any Owner, or of the Master Association, from pursuing or exercising any subrogation rights, whether arising by contract, common law, or otherwise, against the Declarant and Builder (including their respective principles, officers, managers, shareholders, members, employees, agents, and representatives). To the full extent permitted by law, the Master Association and Owners hereby release the Declarant and Builder (including their respective principles, officers, managers, shareholders, members, employees, agents and representatives) from any and all liability to the Master Association and all Owners, and anyone claiming through or under them by way of subrogation or otherwise, for any loss, injury, or damage to property, caused by fire or any other casualty or event, even if such fire or other casualty shall have been caused by the fault or negligence of Declarant or Builder or any of its respective principles, officers, managers, shareholders, members, employees, agents and representatives. The Master Association and each Owner agree that all policies of insurance shall contain a clause or endorsement to the effect that this release and waiver of subrogation shall not adversely affect or impair such policies or prejudice the right of the Master Association or any Owner to recover thereunder. The Master Association and all Owners shall indemnify and defend the Declarant and the Builder, and any of their respective officers, employees, owners, or representatives, from any claims barred or released by this provision, including but not limited to any claim brought under any right of subrogation.

## 21.5 Declarant and/or Builder Litigation.

- (a) An Owner may only make a claim against the Declarant or the Builder, to the extent allowed herein, or by law, after the following efforts at dispute resolution have been completed: (i) Right to Cure: the Owner shall provide to the Declarant a Notice of Claim (defined below) and permit the Declarant one hundred eighty (180) days to cure or resolve the claim or defect or to try to get its contractor or the appropriate subcontractor to cure or resolve the claim or defect, prior to initiating any lawsuit, claim, or dispute resolution process; (ii) if the dispute is not resolved within the 180-day Right to Cure period, the parties agree to mediate the dispute prior to taking further action. If additional, different, or modified claims, damages, calculations, supporting information, or descriptions are added, provided to, or asserted against the Declarant that were not included in any previously submitted Notice of Claim, the Right to Cure period provided for in this section shall immediately apply again, and any pending action, including any mediation or arbitration, shall be stayed for the 180-day period.
- (b) For any claim allowed by law or by this Master Declaration, the parties agree to binding arbitration of all claims asserted against the Declarant, the Builder, or subcontractor by either the Master Association or any Owner, with the initiating party advancing all arbitration costs subject to assignment of those costs by the arbitrator in a final decision on the merits. The parties to any such arbitration mutually shall work, in good faith, to agree upon the arbitrator, mediator, arbitration service, and all aspects of the arbitration and mediation proceedings. In case of any disagreement regarding the mediation or arbitration service, the American Arbitration Association shall administer the mediation and arbitration, and the rules applicable to construction disputes shall apply. The arbitration rules shall be subject to the requirements of this Master Declaration and shall be modified accordingly in case of any conflict between the Rules and this Master Declaration.
- (c) "Notice of Claim" shall mean and include the following information: (i) the nature of the claim; (ii) a specific breakdown and calculation of any alleged damages; (iii) a specific description of the claim, along with any supporting opinions, information, or other factual evidence upon which the claim is based; (iv) photographs of any alleged condition, if applicable; (v) samples of any alleged defective conditions or materials; (vi) all efforts taken to avoid, mitigate, or minimize the claim or any alleged damages arising therefrom; and (vii) the names, phone numbers, and addresses of every Person providing factual information, legal or factual analysis, or legal or factual opinions related to the claim.
- (d) Notwithstanding any other provision in this Master Declaration, except as to an Owner Warranty, and to the fullest extent permitted by the law, an Owner shall not and agrees not to commence or maintain any litigation, arbitration, or other action against the Declarant, the Builder, or any of their respective principles, officers, managers, shareholders, members, employees, agents and representatives, for any reason, including, but not limited to, alleged construction defects or any damages arising therefrom.

- (e) Notwithstanding any other provision in this Master Declaration, and to the fullest extent permitted by the law, the Master Association shall not, and cannot, commence or maintain any litigation, arbitration, or other action against the Declarant or its principles, officers, managers, shareholders, members, employees, agents and representatives, for any reason, including, but not limited to, for alleged construction defects, any related claims, or any damages arising therefrom.
- (f) The Master Association shall indemnify and defend the Declarant and its principles, officers, managers, shareholders, members, employees, agents and representatives, against any litigation, arbitration, or the assertion of any claim arising out of any alleged construction defect in, or related to, the Declarant's development and/or construction of the Project, and/or any damages arising therefrom. By taking title to a Unit, the Owner specifically disclaims and releases the Declarant from any claim, known or unknown, related to any defect in the Project not specifically covered by either a Master Association Warranty or an Owner Warranty, except only as limited by law. The Master Association and each Owner acknowledges and agrees that these warranties, if provided, and whatever coverage they might provide, are the sole remedy of the Master Association related to any alleged or actual construction defects. In case of any claim or litigation asserted related to any construction defect arising in any Unit, the Owner agrees to defend the Declarant (which shall permit the Declarant to select counsel and require the Owner to advance all costs and fees related to any such claim) from any such claim, and to indemnify both the Declarant and the Builder from any liability arising therefrom.
- (g) Subject only to the provisions in the Owner Warranties (if any) and any Master Association Warranties (if any), the Master Association and the Owners take ownership and possession of the Units and Common Areas and Facilities "AS IS," with all faults and with no warranties of any kind, except as otherwise required by law. **THE DECLARANT SPECIFICALLY DISCLAIMS ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR USE, OR OF HABITABILITY, TO THE FULL EXTENT ALLOWED BY LAW.**
- (h) If otherwise allowed by law, notwithstanding the terms of this Master Declaration, or if allowed in this Master Declaration prior to the Master Association making any demand or commencing any mediation, arbitration, or litigation (any "action") against a Declarant or any contractor or subcontractor involved in the original construction of the Project, other than a claim made solely upon a Master Association Warranty against a subcontractor, the Master Association must have a meeting of the Owners, with proper notice, and have all attorneys, experts, and other Persons expected to be involved in the claim, present at the meeting. Those Persons present, including the Board, must permit discussion among the Owners and questions from the Owners, and must respond to all reasonable questions of the Owners related to the proposed claims. The notice for the aforesaid meeting must include the following information:

- (i) a statement must be made on the first page of such notice in bold, upper case, and not less than 22-point font: “The Master Association is contemplating serious and potentially time-consuming and expensive litigation against the Declarant of this project. This litigation could cost you money in the form of increased assessments, and will likely impact the resale value of your Unit, and your ability to sell your Unit, while this litigation is pending. This litigation could take years to resolve. You should think seriously about this issue and attend the meeting on this issue.”;
- (ii) a budget and detailed breakdown of all costs and legal fees reasonably estimated to be caused by the expected litigation, including a breakdown of any costs and fees to be advanced by anyone, including any attorney or other representative of the Master Association, under any contingency arrangement, and all those costs and fees to be paid directly by the Master Association, all of which shall assume the litigation will last five (5) years (unless it is reasonably expected to last longer, in which case the longer period shall be used for this estimate), and require a trial on the merits;
- (iii) a detailed explanation of where any money to be paid by the Master Association will be obtained, including a per Unit breakdown of all costs and fees per year, assuming the litigation will last five years;
- (iv) a written statement of each Board member indicating that member’s position on the litigation;
- (v) a legal opinion on the likelihood of success of any such litigation or arbitration from an attorney not associated with the attorney or law firm who is anticipated to bring any such action, analyzing the applicable law, Governing Documents, and all relevant and known factual information;
- (vi) all terms of the agreement between the Master Association and the attorney or law firm prosecuting the action, including a copy of any engagement letter, contract, or agreement related to that representation;
- (vii) a detailed description of the alleged claims against the Declarant and of all efforts by the Master Association to resolve those claims prior to commencing any action.

In addition to the requirements above, and before commencing any action, the Master Association must obtain the approval of 85% of the total Allocated Interests (not 85% of those Owners present), by vote, at a lawfully called and properly noticed special meeting for that purpose only. Such a special meeting must occur no sooner than thirty (30) days, and not later than sixty (60) days, after the meeting required above. The Master Association cannot special assess, borrow money, or use any reserve funds to fund any such action, or to pay for any costs associated with any such action, including, but not limited to, copying costs, deposition costs, expert witness costs, and filing fees.

- (i) Any agreement with a law firm or attorney under which the law firm would represent the Master Association in an action (as defined in the prior subsection) must have, at a minimum, the following terms: (i) the law firm or attorney will apply sufficient resources, attorneys, time, and administrative support to the action, as necessary, to prosecute the action as quickly as the court system will allow; (ii) the attorney or law firm will provide monthly status reports, in writing, describing at a minimum (1) the work that was completed in the last month, (2) the time, in hours and minutes, incurred by each attorney or billable staff member in the last month, broken down by time entry, person performing the work, and a description of each time entry, (3) the costs incurred by the attorneys and any experts in the prior month, (4) a running tally of all costs and time, by attorneys and staff members, since the beginning of the action, and updated monthly, (5) a list of what is needed to move the action toward resolution, (6) the projected dates for each action that is needed to move the action toward resolution, (7) an explanation of why any projected action cannot be completed immediately; (iii) the attorney or law firm will provide an opinion letter regarding the Master Association's claims prior to commencing any action that will, at a minimum, explain each claim, cite the law supporting the claim, cite the facts supporting the claim, provide an application of the law to the facts and analysis of each claim, cite any potential defenses or weaknesses to any claim, including an analysis of each potential defense or weakness, an opinion of the lawyer or law firm as to the Master Association's likelihood of success on each claim, an analysis of potential damages, including citations to the law and facts supporting that analysis, and an opinion of the lawyer or law firm on the damages the Master Association would likely be awarded for each claim; and (iv) a requirement that the Master Association be permitted to terminate the engagement of the law firm or attorney at any time, with no requirement to pay any attorneys' fees incurred under a contingency arrangement up to that date if, in the Master Association's sole discretion, (a) the attorney or law firm is not prosecuting the action as rapidly as the court system will allow, (b) the burden of the action on the Owners through the inability to sell or refinance, through costs, or through any disruption to the operations of the Master Association, is not worth the continuation of the action, (c) the Master Association determines, at any time, that the legal and factual risks associated with the action are such that the action should not be pursued further, (d) the law firm or attorney fails to keep the Master Association informed as to the course of the action and effect of proceedings on the likelihood of success, including any failure to provide required monthly reports.
- (j) The existence of procedures and/or requirements in this Article 21 applicable to claims against the Declarant, or its contractor or subcontractors, that are barred or limited in other provisions of this Master Declaration, shall not be construed as permitting any such claims or as contradictory to a prohibition or limit on such claims in other provisions in this Master Declaration. The procedures and requirements to assert a claim (including, but not limited to, the right to cure requirements, the meeting and Owner approval requirements, the mediation requirement, and the arbitration requirements) that is prohibited by this Master

Declaration are provided solely in case any such claim is permitted by law, notwithstanding the terms of this Master Declaration.

- (k) Prior to engaging any lawyer or firm to represent the Master Association related to any litigation described in this section, the Master Association shall obtain independent counsel to review the engagement letter governing that representation and advise the Master Association to ensure that the requirements in this Master Declaration are satisfied related to that engagement. The Master Association shall continue the representation of independent counsel to monitor the representation by that counsel and to ensure that any proceeding is prosecuted diligently, competently, and consistent with the requirements of the engagement letter and this Master Declaration.

21.6 Land Owners. All Persons owning land that is initially or subsequently incorporated into the Project, and who sign the Master Declaration or any amendment thereto subjecting that land to the Master Declaration and incorporating it into the Project, shall be afforded the same rights, protections, and litigation avoidance procedures that are provided for the Declarant in this Article 21.

## ARTICLE 22 PRIVATELY-OWNED AMENITIES

22.1 No Rights to Use of Privately-Owned Amenities. Ownership of a Unit does not create any interest in, or rights to, the Golf Course, Golf Club, or any other Privately-Owned Amenities. Use of and access to any Privately-Owned Amenities shall be subject to, and governed by, the rules and requirements of the Private Amenity owner. Nothing in this Master Declaration shall be construed to grant any right of entry, license, or authorization to use the Privately-Owned Amenities. Rights to use the Privately-Owned Amenities will be granted only to such Persons, and on such terms and conditions as the Privately-Owned Amenities owner may determine. The Privately-Owned Amenities owner shall have the right, in its sole discretion, with or without notice, to amend, waive, or revoke the terms and conditions of use of the Privately-Owned Amenities, and any unauthorized entry on, to, or use of the Privately-Owned Amenities by any Owner, Occupant, or third Person may constitute trespass.

22.2 No Representation or Warranty. The Declarant and the Master Association specifically disclaim any and all representations and warranties, of every kind and nature, regarding the Golf Course or other Privately-Owned Amenities, and any rights to and/or use thereof.

22.3 Easements for Golf Club and Golf Course.

- (a) Every Unit and the Common Areas and Facilities surrounding or neighboring the Golf Course are burdened with an easement permitting golf balls unintentionally to come upon such Common Area and Facilities and Units, and for golfers, at reasonable times, and in a reasonable manner, to enter onto the Common Area and Facilities or a Lot to retrieve errant golf balls. Nothing in the foregoing easement grant, however, shall operate to relieve any golfer of liability for damage caused by errant golf balls. Notwithstanding anything in this Section 22.3 to the contrary, neither the Declarant, the Builder, the Master Association, the

Master Association members, nor the Privately-Owned Amenities owner shall be liable to any Owner, Occupant, invitee or guest for any injury or damage arising from, or related to, errant golf balls or the exercise of this easement.

- (b) The Golf Club and Golf Course owners, including their respective officers, directors, members, employees, agents, assigns and successors in interest, shall, at all times, have a right and non-exclusive easement of access and use over those portions of the Common Areas and Facilities reasonably necessary, with or without the use of maintenance vehicles and equipment, for the operation, maintenance, repair and/or replacement of the golf course.
- (c) All Units and Common Area and Facilities immediately adjacent to the Golf Course are burdened with a non-exclusive easement in favor of the Golf Club and Golf Course owners (including their respective agents, successors, assigns, and transferees) for overspray of water, fertilizer, or other material or effluent from any irrigation system serving the Golf Course. Notwithstanding anything in this Section 22.3 to the contrary, neither the Declarant, the Builder, the Master Association, the Master Association members, nor the Golf Course owner shall be liable to any Owner, Occupant, invitee or guest for any injury or damage arising from, or related to, the exercise of this easement.
- (d) The Golf Club and Golf Course owners (including their respective agents, successors, assigns, and transferees) shall have a perpetual, exclusive easement of access over all adjacent properties within the Project for the purpose of retrieving golf balls from the Water Feature and other areas lying reasonably within range of golf balls hit from the Golf Course.
- (e) The Golf Club and Golf Course owners (including their respective agents, successors, assigns, and transferees), and their guests, invitees, employees, and authorized users of the Golf Course, shall at all times have a right and non-exclusive easement of access and use over all roadways and golf cart paths, if any, located, or to be located, within the Project at reasonable times before, during, and after golf tournaments, and other functions held at the Golf Course.
- (f) The Golf Club and Golf Course owners (including their respective agents, successors, assigns, and transferees) shall have a perpetual non-exclusive easement, to the extent reasonably necessary, on the Property, for the installation, operation, maintenance, repair, replacement, monitoring and controlling of irrigation systems and equipment, including, without limitation, wells, pumps, and pipelines serving all or portions of the Golf Course.
- (g) The Golf Club and Golf Course owners (including their respective agents, successors, assigns, and transferees) shall have a perpetual, non-exclusive easement, to the extent reasonably necessary, on the Property, for the installation, maintenance, repair, replacement, and monitoring of utility lines, wires, drainage pipes, and pipelines serving all or portions of the Golf Course.

- (h) The Project is hereby burdened with easements in favor of the Golf Course for natural drainage of storm water runoff from the Golf Course.
  - (i) The Project is hereby burdened with easements in favor of the Golf Club and Golf Course owners for golf cart paths serving the Golf Course. Under no circumstances shall the Master Association, or the Owner of the Golf Course, be held liable for any damage or injury resulting from the exercise of this easement.
  - (j) The Golf Club or Golf Course owner shall have the right to erect fencing on some or all of the Golf Course.
- 22.4 Easement for Cross-Drainage. Every Unit and the Common Area and Facilities shall be burdened with easements for natural drainage of storm water runoff from other portions of the Properties, provided no Person shall alter the natural drainage on any Unit so as to materially increase the drainage of storm water onto adjacent portions of the Property without the consent of the Owner of the affected property.
- 22.5 Right of Entry. The Master Association shall have the right, but not the obligation, to enter upon any Unit for emergency, security, and safety reasons, to perform maintenance authorized by this Master Declaration, and to inspect, for the purpose of ensuring compliance with this Master Declaration, any Supplemental Declaration, Bylaws, and Rules, which right may be exercised by the Board, the Master Association, officers, agents, employees, and managers, and all policemen, firemen, ambulance personnel, and similar emergency personnel in the performance of their duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner. This right of entry shall include the right of the Master Association to enter upon any Unit to cure any conditions which may increase the possibility of a fire or other hazard, in the event an Owner fails or refuses to cure the condition within a reasonable time after requested by the Board, but shall not authorize entry into any detached single-family dwelling without permission of the Owner, except by emergency personnel acting in their official capacities.
- 22.6 Assumption of Risk and Indemnification: Maintenance. Each Owner, by his/her purchase of a Lot or Unit in the vicinity of the Golf Course, hereby expressly assumes the risk of noise, personal injury, or property damage caused by maintenance and operation of the Golf Club and Golf Course, including, without limitation: (a) noise from maintenance equipment (it being specifically understood that maintenance typically takes place around sunrise and/or sunset); (b) noise caused by golfers; (c) use of pesticides, herbicides, and fertilizers; (d) use of effluent in the irrigation of the Golf Course; (e) reduction in privacy caused by golf traffic on the Golf Course, or the removal or pruning of shrubbery or trees on the Golf Course; (f) errant golf balls and golf clubs; and (g) design of the Golf Course.

Each such Owner agrees that neither Declarant, the Master Association, the Golf Club or Golf Course owners, nor any of their affiliates or agents shall be liable to such Owner or any other person claiming any loss or damage, including, without limitation, indirect destruction of property, trespass, loss of enjoyment, or any other alleged wrong or entitlement to remedy based upon, due to, arising from, or otherwise related to the proximity of an Owner's Lot or Unit to the Golf Course, including, without limitation, any claim arising in whole or in part from the negligence of Declarant, the Master Association, the Golf Club and Golf Course owners, or any of their affiliates or agents. The Owner hereby agrees to indemnify and hold harmless the Declarant, the Master Association, the Golf Club and Golf Course owners, and their affiliates and agents from, and against, any and all claims by such Owner's tenants, guests or invitees, or others upon such Owner's Lot or Unit.

### ARTICLE 23 EASEMENTS

- 23.1 Easements of Encroachment. There shall be reciprocal appurtenant easements of encroachment, and for maintenance and use of any permitted encroachment, between each Unit and any adjacent Common Area and Facilities and between adjacent Units due to the unintentional placement or settling or shifting of the improvement constructed, reconstructed, or altered thereon (in accordance with the terms of these restrictions) to a distance of not more than three feet, as measured from any point on the common boundary along a line perpendicular to such boundary. However, in no event shall an easement for encroachment exist if such encroachment occurred due to willful and knowing conduct on the part of, or with the knowledge and consent of, an Owner, occupant, or the Master Association.
- 23.2 Easements to Serve Additional Property. The Declarant hereby reserves for itself and its duly authorized agents, representatives, employees, successors, assigns, licensees, and mortgagees, an easement over the Common Area and Facilities for the purposes of enjoyment, use, access, and development of the property subject to the Development Agreement (the "Additional Property"), whether or not such property is made subject to this Master Declaration. This easement includes, but is not limited to, a right of ingress and egress over the Common Area and Facilities for construction of roads and for connecting and installing utilities on such property. Declarant agrees that it and its successors or assigns shall be responsible for any damage caused to the Common Area and Facilities as a result of vehicular traffic connected with development of such property. Declarant further agrees that if the easement is exercised for permanent access to such property and such property, or any portion thereof, is not made subject to this Master Declaration, the Declarant, and its successors or assigns, shall enter into a reasonable agreement with the Master Association to share the cost of maintenance of any access roadway serving such property.



EXHIBIT A  
LEGAL DESCRIPTION

Lots 1 through 13, FOREVERMORE PLAT "A" AMENDED, recorded May 29, 2013, as Entry No. 390318, in the office of the Wasatch County Recorder.

Lots 31 through 35, HIDEOUT CANYON PHASE 1 – POD 4 RESIDENTIAL PLAT AMENDED, recorded September 29, 2009 as Entry No. 352738, in the office of the Wasatch County Recorder.

Lots 50 through 75, HIDEOUT CANYON PHASE 5 RESIDENTIAL PLAT, recorded April 16, 2009, as Entry No. 346911, in the office of the Wasatch County Recorder.

Lots C1 through C5, HIDEOUT CANYON COMMERCIAL PHASE, recorded May 27, 2005, as Entry No. 283647, in the office of the Wasatch County Recorder.

Lots 16, 17 and Open Space, Plat A, HIDEOUT CANYON LOTS 16 & 17, recorded September 23, 2013, as Entry No. 394141, in the office of the Wasatch County Recorder.

Lots 36 through 39, HIDEOUT CANYON PHASE 1 AMENDED AMENDING POD 9 RESIDENTIAL PLAT, recorded April 3, 2008, as Entry No. 334044, in the office of the Wasatch County Recorder.

Lots 1 through 30, and Lots T1 through T8, HIDEOUT CANYON AMENDED PHASE 1, FIRST RESIDENTIAL PLAT, recorded January 10, 2008, as Entry No. 330592, in the office of the Wasatch County Recorder.

Lots 50 through 53, and Lots R-19, R-20 and R21, HIDEOUT CANYON PHASE 2A RESIDENTIAL PLAT, recorded November 21, 2008, as Entry No. 342228, in the office of the Wasatch County Recorder.

Lots 1 through 9 and Lots R-1 through R-6, HIDEOUT CANYON PHASE 8 RESIDENTIAL PLAT, recorded June 5, 2009, as Entry No. 348949, in the office of the Wasatch County Recorder.

Lots 1 through 9, HIDEOUT CANYON PHASE 8A RESIDENTIAL PLAT, recorded August 25, 2015, as Entry No. 415529, in the office of the Wasatch County Recorder.

Lots 2 through 5, Lots 9 through 15, Lots 23 through 49, POD 1, POD2, POD 3A, POD 3E, and POD 3C and Lots R-1 through R-18, HIDEOUT CANYON PHASES 2 AND 4 RESIDENTIAL PLAT, recorded January 17, 2006, as Entry No. 295335, in the office of the Wasatch County Recorder.

Lots 1 through 20, RUSTLER PLAT "A" AMENDED, a Planned Unit Development, recorded June 12, 2012, as Entry No. 379673, in the office of the Wasatch County Recorder.

Lots 21 through 31, RUSTLER PLAT "B" AMENDED, a Planned Unit Development, recorded April 26, 2013, as Entry No. 389202, in the office of the Wasatch County Recorder.

Lots 41 through 66, RUSTLER PLAT "C" 1<sup>ST</sup> AMENDED, a Planned Unit Development, recorded November 23, 2015, as Entry No. 418531, in the office of the Wasatch County Recorder.

Lots 67 through 88, RUSTLER PLAT "D", a Planned Unit Development, recorded March 26, 2015, as Entry No. 410327, in the office of the Wasatch County Recorder.

Lots 1 through 47, SOARING HAWK SUBDIVISION PHASE 1, recorded September 26, 2014, as Entry No. 404842, in the office of the Wasatch County Recorder.

Lots 48 through 108, SOARING HAWK SUBDIVISION PHASE 2, recorded July 16, 2015, as Entry No. 414035, in the office of the Wasatch County Recorder.

Lots 109 through 140, SOARING HAWK SUBDIVISION PHASE 3, recorded May 3, 2016, as Entry No. 424009, in the office of the Wasatch County Recorder.

Lots 141 through 154, SOARING HAWK SUBDIVISION PHASE 4, recorded March 25, 2015, as Entry No. 410313, in the office of the Wasatch County Recorder.

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**AMENDED BYLAWS  
OF  
COMMUNITY PRESERVATION ASSOCIATION**

These Amended Bylaws of the Community Preservation Master Association (the “Bylaws”), having been approved and adopted by the written consent of more than fifty-one percent (51%) of the total voting interests in the Community Preservation Association (the “Master Association”) in accordance with Utah Code Ann. § 57-8a-104, are hereby established as the Bylaws of the Master Association. These Bylaws, and any amendments thereto, shall apply to the Master Association upon their recording and shall bind all present and/or future Owners and Occupants.

**ARTICLE I: DEFINITIONS**

- 1.1 **Definitions.** Except as otherwise provided herein, or as may be required by the context, all terms defined in the Amended and Restated Master Declaration of Covenants, Conditions, and Restrictions for (“the Master Declaration” or “Declaration”), as amended, shall have the same defined meanings when used in these Bylaws.
- 1.2 **Notice.** Notice as required in these Bylaws shall be accomplished as provided for in the Declaration.

**ARTICLE II: OWNERS**

- 2.1 **Annual Meetings.**
- (a) **Requirement.** An annual meeting of the Owners shall be held no less than once each calendar year.
- (b) **Date and Time.** The date and time for the annual meeting shall be determined by the Board, in its discretion.
- (c) **Purpose.** The Annual Meeting shall be held for the following purposes.
- (i) electing members of the Board;
- (ii) distributing any annual insurance checklist if it was not distributed before the meeting, announcing the current deductible for the Master Association’s property insurance and the Owners’ potential responsibility for this deductible, and permitting questions and discussion on insurance issues and coverage;
- (iii) if no earthquake insurance has been obtained, voting to confirm the Board’s decision to forego such insurance; and
- (iv) transacting such other business as may properly come before the meeting.
- (d) **Approval of Minutes.** The minutes of the annual meeting shall be approved by the Board within ninety (90) days of the annual meeting.
- (e) **Election of Board Members.** If the election of the Board members cannot be held on the day designated for the annual meeting of the Owners, or at any adjournment thereof, the Board shall cause the election to be held at a special meeting of the Owners, to be convened as soon thereafter as may be convenient.

## 2.2 Special Meetings.

- (a) Who May Call. Special meetings of the Owners may be called by the Board, the President, or upon the written request of Owners holding not less than twenty-five percent (25%) of the Allocated Interest of the Master Association.
- (b) Requirements for Request of Owners. Any written request for a special meeting by the Owners shall include the signature of each Owner affirmatively supporting such request, along with a statement of the purpose of the meeting. The statement of affirmation and purpose must be on every document containing signatures. Such written request is to state the purpose, or purposes, of the meeting, and shall be delivered to the Manager, or the President, who shall then call, and provide notice of, such special meeting within sixty (60) days of receipt of the request that shall address the purpose identified on the request, but no other issues.

2.3 Place of Meetings. The Board may designate the office of the Manager, or any place within the City or Wasatch or Summit Counties, as the place of meeting for any annual or special meeting.

2.4 Notice of Meetings. The Board shall cause written notice of the time and place, and in the case of a special meeting, the purpose, for all meetings of the Owners (whether annual or special) to be delivered, not more than thirty (30), nor less than ten (10), days prior to the meeting.

2.5 Owners of Record. For the purpose of determining Owners entitled to notice of, or to vote, at any meeting of the Owners, or any adjournment thereof, the Board may designate a record date, which shall not be more than thirty (30), or less than ten (10), days prior to the meeting. If no record date is designated prior to sending notice of the meeting, the first date on which a notice of the meeting is sent shall be deemed to be the record date for determining Owners entitled to notice of, or to vote, at the meeting. The persons or entities appearing in the records of the Master Association on such record date as the Owners of record of Units in the Property shall be deemed to be the Owners of record entitled to notice of, and to vote, at the meeting of the Owners.

2.6 Quorum. At any meeting of the Master Association members, the Owners present at the meeting shall constitute a quorum for the transaction of business.

2.7 Proxies. At each meeting of the Master Association members, each Owner entitled to vote shall be entitled to vote in person or by proxy; provided, however, that the right to vote by proxy shall exist only where the instrument authorizing such proxy to act shall have been executed by the Owner, or by the Owner's attorney, when duly authorized in writing. If a Unit is jointly owned, the instrument authorizing a proxy to act may be executed by any one (1) Owner of such Unit, or that Owners' attorneys when duly authorized in writing. Such instrument authorizing a proxy to act may set forth the specific matters or issues upon which the proxy is authorized to act, and may allow the proxy to vote on any issue arising at any particular meeting or meetings. Such instrument shall be delivered either prior to or at the meeting (but no later than any point after the start of the meeting and announced as the final time to deliver proxies) to the Secretary of the Master Association or to such other officer or person who has been authorized by the Master Association to accept proxies at the meeting.

- 2.8 Votes. With respect to each matter submitted to a vote of the Owners, each Owner entitled to vote at the meeting shall have the right to cast, in person or by proxy, one vote for each Unit of such Owner. The affirmative vote of a majority of the votes entitled to be cast by the Owners present or represented by proxy at a meeting at which a quorum was initially present shall be necessary for the adoption of any matter voted on by the Owners, unless a greater proportion is required by these Bylaws, the Declaration, the Act, or the Revised Nonprofit Corporations Act. The election of Board Members shall be by secret ballot. When more than one Owner holds an interest in a Unit, any Owner may exercise the vote for such Unit on behalf of all co-Owners of the Unit. In the event of two conflicting votes by co-Owners of one Unit, no vote shall be counted for that Unit but it shall be counted for the purposes of establishing a quorum. In no event shall fractional votes be exercised in respect to any Unit.
- 2.9 Ballots and Written Consent. The Master Association may utilize written consents and/or ballots consistent with the requirements of the Revised Nonprofit Corporation Act.
- 2.10 Minutes of Meetings. The secretary shall take minutes of all meetings of the Owners. The minutes shall include, at a minimum, (a) the identification of the Persons present at the meeting in person and by proxy, (b) the date of the meeting, (c) the identification of any issue that is voted on or decided in the meeting, (d) the number of votes cast for and against any issue decided upon, (e) the exact wording of any resolution passed at the meeting. The failure to take appropriate minutes or otherwise comply with this Section 2.10 does not invalidate any action taken at a meeting. Draft meeting minutes for each meeting of the Owners shall be provided to all Owners within thirty (30) days of the annual meeting. Posting of the draft meeting minutes to the Master Association's website, if available, shall satisfy the requirement of this section 2.10.

### ARTICLE III: BOARD

- 3.1 Number, Tenure, Qualifications, and Election.
- (a) Number of Members. The Board shall be composed of not less than three (3), and no more than five (5), individual meeting the qualifications stated in the Declaration, subject to the Declarant Rights set forth in the Declaration.
- (b) Member Requirements. At all times after the end of the Declarant Control Period and turnover of the Project from the Declarant, at least two (2) of the Board Members must have as their primary residence a Unit in the Project. All candidates for the Board shall indicate either in a written statement provided prior to the meeting or verbally at the meeting whether his or her Unit in the Project is that person's primary residence. Any candidate whose election or appointment would contravene this requirement shall be ineligible for election or appointment. In determining which of multiple candidates elected shall serve if only one can serve and maintain the requirements of this provision, the highest vote getter shall prevail. If both have equal votes, then the issue shall be resolved by a coin toss.
- (c) Term. Except during the Declarant Control Period, and except for the initial Board Members elected upon turnover of the Master Association from the Declarant the term for Board Members shall be two (2) years. The terms of the Board Members shall overlap so that an odd number of Board Members shall be

elected in odd number years and an even number of Board members elected in even number years.

- (d) Nominations. At or before the annual meeting, or any subsequent meeting at which the election is held, any Owner may submit his/her own name or the name of any other willing and otherwise qualified individual to serve on the Board. If the Master Association gives advance notice of any individuals seeking election to the Board, it shall include the names of every individual from whom it has received the written affirmation. If the name of an individual is submitted who is not in attendance at the meeting, it shall not be added to the final ballot for election of Board Members unless it is submitted with a written statement signed by the individual indicating that he/she is willing to serve.
- (e) Disqualification. If any Board Member is alleged to not meet the qualification requirements in the Declaration, and any Board Member is notified of or discovers this alleged lack of qualification, the Board shall promptly investigate and verify whether the Board Member is qualified or not, and during this investigation period the Board Member whose qualification is in question shall not vote on Board matters. If the Board Member is not qualified, the Board Member's membership on the Board shall terminate automatically retroactive to the date that written notice of an alleged lack of qualification was provided to the Master Association or, if no notice was provided, to the date that the Board established that the Board Member was not qualified. If a Board Member becomes unqualified, or was not qualified under the Governing Documents, but was nonetheless elected to or permitted to remain on the Board, the decisions and actions of the Board and that Board Member are not subject to challenge on this basis up to the time that the Master Association is notified in writing as provided for in this Section, or until the Board Member is disqualified if no such notice is provided.
- (f) Removal for Failure to Participate. If any Board Member shall fail to appear at four (4) successive regular Board meetings in a row, or fifty percent (50%) or more of the regular Board meetings within any calendar year, after having received proper notice of the meetings and after the Board has attempted in good faith to schedule meetings consistent with all of the members' schedules, the other Board Members may, by unanimous vote, remove that member and appoint a new member.

### 3.2 Meetings.

- (a) Regular Meetings. The Board shall hold regular meetings at least quarterly, and more often at its discretion.
- (b) Who Is Entitled to Attend. Consistent with Utah Code Ann. § 57-8a-226, Owners may attend meetings and may be present for all discussion, deliberation, and decisions, except when the Board is in executive session.
- (c) Special Meetings. Special meetings of the Board may be called by, or at the request of, any two Board Members or the President of the Master Association. Notice of any special meeting shall be given at least forty-eight (48) hours prior

thereto to each Board Member. Except as provided by law, no notice of special meetings is required to be provided to Owners, although any Owner may attend a special meeting if the Owner appears at the physical location of the meeting in person.

- (d) Quorum and Manner of Acting. Two Board Members shall constitute a quorum for the transaction of business at any meeting of the Board. The act of a majority of the Board Members present at any meeting at which a quorum is present, and for which proper notice was provided to the Board Members, shall be the act of the Board. The Board Members shall act only as a Board, and individual Members shall have no powers as such.
- (e) Place and Notice of Meetings. The Board may designate any place in the City or in Wasatch or Summit Counties as the place of meeting for any regular meeting called by the Board, but shall in good faith attempt to hold meetings at the office of the Manager or in as close a proximity to the Project as reasonably possible. All Board Members and Owners shall be given at least ten (10) days' notice of regular meetings.
- (f) Executive Session.
- (i) The Board or a Sub-Committee may, by motion and a vote, continue deliberations and discussions in executive session and, if they enter executive session, shall discontinue any executive session by motion and a vote. A member of the Board who is not a member of a Sub-Committee shall not be entitled to attend executive sessions of the Sub-Committee or inspect attorney-client privileged minutes of the Sub-Committee without approval of the Board.
- (ii) The minutes of the meeting at which an executive session is held shall include:
- (1) The purpose(s) of the executive session in sufficient detail. For example, the following are sufficient descriptions: "to discuss the terms of a management contract with XYZ Company," "To discuss the pending litigation with XYZ" or "to discuss a complaint of a Rule violation."
  - (2) Any decisions made during executive session. Decisions made in executive session that cannot be properly and fully documented without disclosing attorney-client privileged information shall be recorded in the minutes of the meeting as "Decision made regarding attorney-client privileged issues that are recorded in Separate and attorney-client privileged minutes of the Executive Session," and separate executive session minutes shall be created that shall fully describe the decision as would normally be required in regular minutes. The separate executive session minutes shall state on their face that they contain attorney-client privileged information and shall be disclosed to non-committee members only

as required by law for the disclosure of attorney-client privileged information.

- (iii) The discussions in executive session shall be confidential and shall not be disclosed to anyone outside of the meeting, except as authorized by the Board or the Sub-Committee. Documents analyzed in executive session may be confidential for other reasons provided for by law or in the Governing Documents, but they are not confidential merely as a result of having been discussed or presented in executive session.
- (iv) Executive sessions may be held to discuss and make decisions related to the following matters:
  - (1) Pending or prospective legal proceedings and issues related to the Master Association, its operations, or its governance, including, but not limited to, meetings with the Master Association's counsel;
  - (2) Contracts and purchases related to the Master Association, including, but not limited to, the negotiations, potential breaches, reviews of contracts, and the terms of any purchases;
  - (3) Master Association employee and personnel issues, including reviews, discipline issues, termination issues, salary issues, and the terms of employment; and
  - (4) Rule violations by Owners, including, but not limited to, the discussion of complaints, and whether to impose fines or utilize any particular remedy to address particular violations.
- (v) The Board or the Sub-Committee holding the executive session shall determine who, outside of that committee, shall be allowed to be present in executive session, and no one else is entitled to be present. All members of the Board shall be entitled to be present at executive committee meetings of the Board. All members of a Sub-Committee shall be entitled to be present in executive sessions of the Sub-Committee.

### 3.3 Informal Action and Action by Committee Members without a Meeting.

- (a) Any action that is required or permitted to be taken at a meeting of the Board may be taken without a meeting if each and every Board Member, in writing, either:
  - (i) votes for the action, or
  - (ii) votes against or abstains from voting, and does not exercise his/her the right to demand that action not be taken without a meeting.
- (b) An action taken pursuant to this Section shall not be effective unless the Master Association receives writings:
  - (i) describing the action taken;
  - (ii) signed by each Board Member; and
  - (iii) not revoked pursuant to subsection 3.3(d).

- (c) Action taken under this section is effective only if the affirmative vote for the action equals or exceeds the minimum number of votes that would be necessary to take the action at a meeting at which all of the Board members then in office were present and voted.
- (d) A Board Member may revoke consent to any action given pursuant to this section by communicating in writing that the Board Member has changed his/her vote with a description of the action. To be effective, the revocation must be received before receipt of the final consent necessary for the action to be effective.
- (e) An action approved of pursuant to this section is effective when the last writing necessary to satisfy this section is received by the Master Association.
- (f) Action taken pursuant to this section has the same effect as action taken at a meeting of the Board, and may be described as an action taken at a meeting of the Board Members in any document.
- (g) For purposes of this section:
  - (i) “Signed” or “signature” is any indication on the document (whether paper or electronic) that the document is from and consented to by the person who is purported to have sent it. For example, a typed name at the bottom of an email satisfies the requirement for a signature.
  - (ii) “Writing” shall refer to an email, letter, facsimile, or any other physical or electronic document.
  - (iii) Communications may be by email, facsimile, hand delivery, mail, or other electronic or physical means.
  - (iv) Any response to any electronic communication shall be:
    - (1) to the address of the sender using the same address and means of communication as was used to send the request for consent of an action; or
    - (2) to any address in regular use (electronic, telephonic, or physical) by the person sending the request.
  - (v) A communication shall satisfy the requirement to “describe the action taken” if:
    - (1) it is in the form of an email and it includes with the email the content of prior emails in the email chain that describe or include the proposed action;
    - (2) it is in the form of a facsimile and it includes either as a separate page or on the page in which a response is given, the request for action or a description of the proposed action; or
    - (3) the writing from the Board Member sufficiently describes or restates the proposed action.

- 3.4 Compensation. Subject to the exception in Section 20.18, no Board Member shall receive compensation for any services that he/she may render to the Master Association as a Board Member; provided, however, that a Board Member may be reimbursed for expenses incurred in the performance of his/her duties as to the extent such expenses are approved by the Board.
- 3.5 Resignation and Removal. A Board Member may resign at any time by delivering a written resignation to either the President or the Board. Unless otherwise specified therein, such resignation shall take effect upon delivery. An oral resignation attempt is not effective. Any Board Member may be removed and replaced at any time, with or without cause, by the affirmative vote of at least fifty percent (50%) of the Allocated Interest of the Master Association at a special meeting of the Owners duly called for such purpose.
- 3.6 Vacancies. If vacancies shall occur in the Board by reason of the death, resignation, removal for failure to attend meetings, or disqualification of a Board Member, the Board Members then in office shall continue to act, and such vacancies shall be filled by a vote of the Board Members then in office, even though less than a quorum may be available. Any vacancy in the Board occurring by reason of removal of a Board Member by the Owners may be filled by election by the Owners at the meeting at which such Board Member is removed. Any Board Member elected or appointed hereunder to fill a vacancy shall serve for the unexpired term of his/her predecessor.

#### ARTICLE IV: OFFICERS

- 4.1 Officers. The officers of the Master Association shall be a President, Vice President, Secretary, and Treasurer.
- 4.2 Election, Tenure and Qualifications. The officers of the Master Association shall be chosen by the Board annually at the first meeting of the Board following the annual meeting. Each such officer shall hold such office until a successor has been elected, or until such officer's death, resignation, disqualification, or removal, whichever first occurs. No person shall hold more than one office, except that the Vice President may also serve as Treasurer or Secretary if there are fewer than five (5) Board Members. All officers must be members of the Board during the entire term of their respective offices.
- 4.3 Subordinate Officers. The Board may, from time to time, appoint such other officers or agents as it may deem advisable, each of whom shall have such title, hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine. Subordinate officers need not be members of the Master Association.
- 4.4 Resignation and Removal. Any officer may resign at any time by delivering a written resignation to any Board Member or to any Manager. Unless otherwise specified therein, such resignation shall take effect upon delivery. Any officer may be removed and replaced by the Board at any time, with or without cause.
- 4.5 Vacancies and Newly Created Offices. If any vacancy shall occur in any office by reason of death, resignation, removal, disqualification, or any other cause, or if a new office shall be created, such vacancies or newly created offices may be filled by the Board at any regular or special meeting. During the time that any office is vacant and no other

officer is available to perform the duties of that office as required below, the Board shall ensure that the duties and responsibilities of the office are performed.

- 4.6 The President. The President shall preside at meetings of the Board and at meetings of the Owners. At all meetings, the President shall have all authority typically granted to the person presiding over a meeting, including, but not limited to: (a) the right to control the order of the meeting; (b) the right to arrange for the removal of any disruptive persons who may include, but not be limited to, any person who: (i) refuses to abide by rules or requests of the presiding person related to the order of the meeting and when speaking is permitted, or (ii) engages in vulgar, threatening, or otherwise inappropriate language or gestures; (c) the right to impose and enforce reasonable rules and procedures related to the meeting, such as those found in "Robert's Rules of Order" or "The Modern Rules of Order;" and (d) the right to designate the Manager or any other person to preside over any meeting at which the President is present. The President shall sign on behalf of the Master Association all conveyances, mortgages, documents, and contracts, and shall do and perform all other acts and things as required by the Board. The President shall have the general authority to implement decisions of the Board and shall oversee the operations of the Master Association. The President shall have authority in case of emergency to take action without Board approval, as is necessary and prudent to preserve and protect property. The President shall be responsible for the duties of any other office while that office is vacant.
- 4.7 The Vice President. The Vice President shall also act in the place and stead of the President in the event of the President's absence or inability or refusal to act. The Vice President shall perform such other duties as required by the Board.
- 4.8 The Secretary. The Secretary shall keep the minutes of the Master Association and shall maintain such books and records as these Bylaws, the Declaration, the law, or any resolution of the Board may require such person to keep. The Secretary shall also act in the place and stead of the President in the event of the President and Vice President's absence, or inability or refusal to act. The Secretary shall perform such other duties as required by the Board.
- 4.9 The Treasurer. The Treasurer shall have the custody and control of the funds of the Master Association, subject to the action of the Board, and when requested by the President, shall report the state of the finances of the Master Association at each meeting of the Owners and at any meeting of the Board. The Treasurer shall have authority and obligation to generally implement the requirements of governing documents as it relates to the funds of the Master Association. The Treasurer shall also act in the place and stead of the President in the event of the President, Vice President, and Secretary's absence or inability or refusal to act. The Treasurer shall perform such other duties as required by the Board.
- 4.10 Compensation. No officer shall receive compensation for any services rendered to the Master Association as an officer; provided, however, that an officer may be reimbursed for expenses incurred in performance of such duties as an officer, to the extent such expenses are approved by the Board.

## ARTICLE V: SUB-COMMITTEES

- 5.1 Designation of Sub-Committees. The Board may, from time to time, by resolution, designate such committees (each a "Sub-Committee") as it may deem appropriate in carrying out its duties, responsibilities, functions, and powers. The membership of each such Sub-Committee designated hereunder shall include at least one (1) Board Member. A Sub-Committee shall not have any powers, duties, or responsibilities beyond those specifically assigned by the Board in a written resolution. The Board may terminate any Sub-Committee at any time.
- 5.2 Proceedings of Sub-Committees. Each Sub-Committee designated hereunder by the Board may appoint its own presiding and recording officers and may meet at such places and times and upon such notice as such Sub-Committee may, from time to time, determine. Each such Sub-Committee shall keep a record of its proceedings and shall regularly report such proceedings to the Board.
- 5.3 Quorum and Manner of Acting. At each meeting of any Sub-Committee designated hereunder by the Board, the presence of members constituting at least a majority of the authorized membership of such Sub-Committee (but in no event less than two (2) members) shall constitute a quorum for the transaction of business, and the act of a majority of the members present at any meeting at which a quorum is present shall be the act of such Sub-Committee. The members of any Sub-Committee designated by the Board hereunder shall act only as a Sub-Committee, and the individual members thereof shall have no powers, as such. A Sub-Committee may exercise the authority granted by the Board.
- 5.4 Resignation and Removal. Any member of any Sub-Committee designated hereunder by the Board may resign at any time by delivering a written resignation to the President, the Board, or the presiding officer of such Sub-Committee. Unless otherwise specified therein, such resignation shall take effect upon delivery. The Board may, at any time, with or without cause, remove any member of any Sub-Committee designated by it thereunder.
- 5.5 Vacancies. If any vacancy shall occur in any Sub-Committee designated by the Board due to disqualification, death, resignation, removal, or otherwise, the remaining members shall, until the filling of such vacancy by the Board, constitute the then total authorized membership of the Sub-Committee and, provided that two (2) or more members are remaining, may continue to act. Such vacancy may be filled at any meeting of the Board.

## ARTICLE VI: INDEMNIFICATION

- 6.1 Indemnification. No Board Member, officer, or member of a Sub-Committee shall be personally liable for any obligations of the Master Association or for any duties or obligations arising out of any acts or conduct of said Board Member, officer, or Sub-Committee member performed for, or on behalf of, the Master Association. The Master Association shall and does hereby indemnify and hold harmless each person who shall serve at any time as a Board Member, officer of the Master Association, or a member of a duly formed Sub-Committee, as well as such person's heirs and administrators, from and against any and all claims, judgments, and liabilities to which such persons shall become subject, by reason of that person having heretofore or hereafter been a Board Member,

officer of the Master Association, or member of a Sub-Committee, or by reason of any action alleged to have been heretofore or hereafter taken or omitted to have been taken by him/her as such Board Member, officer, or Sub-Committee member, and shall advance and reimburse any such person for all legal and other expenses reasonably incurred in connection with any such claim or liability; provided that the Master Association shall have the right, in its sole discretion, to defend such person from all suits or claims; provided further, however, that no such person shall be indemnified against, or be reimbursed for, or be defended against, any expense or liability incurred in connection with any claim or action arising out of such person's intentional misconduct. The rights accruing to any person under the foregoing provisions of this Section shall not exclude any other right to which such person may lawfully be entitled, nor shall anything herein contained restrict the right of the Master Association to indemnify or reimburse such person in any proper case, even though not specifically provided for herein or otherwise permitted.

- 6.2 Other Indemnification. The indemnification herein provided shall not be deemed exclusive of any other right to indemnification to which any person seeking indemnification may be provided under any statute, agreement, vote of disinterested Board Members, or otherwise, both as to action taken in any official capacity and as to action taken in any other capacity while holding such office. The indemnification herein provided shall continue as to any person who has ceased to be a Board Member, officer, Sub-Committee member, or employee, and shall inure to the benefit of the heirs, executors, and administrators of any such person.
- 6.3 Settlement by Master Association. The right of any person to be indemnified shall be subject always to the right of the Master Association by the Board, in lieu of such indemnity, to settle any such claim, action, suit, or proceeding at the expense of the Master Association by the payment of the amount of such settlement and the costs and expenses incurred in connection therewith.

#### ARTICLE VII: AMENDMENTS

- 7.1 Amendments. Except as permitted specifically herein or required by the Act, these Bylaws may be amended by the affirmative vote of Owners holding at least sixty-seven percent (67%) of the Allocated Interest in the Master Association at a meeting called for that purpose provided, however, that during the Declarant Control Period, any such amendment of the Bylaws by the Owners shall require the approval of Declarant. Nothing in this Section 7.1 shall be construed to limit the Declarant's unilateral right to amend these Bylaws (or the Declaration or Rules) during the Developer Control Period, as set forth in Section 20.7 of the Declaration.
- 7.2 Execution of Amendments. Upon obtaining the required vote, an amendment shall be signed by the President and Secretary of the Master Association, who shall certify that the amendment has been properly adopted to as required by these Bylaws. An amendment complying with the requirements of these Bylaws and the Declaration shall be effective when the amendment has been recorded in the office of the County Recorder of Wasatch County, Utah.

ARTICLE VIII: WAIVER OF IRREGULARITIES

- 8.1 Waiver of Procedural Irregularities. All inaccuracies and irregularities in calls or notices of meetings, in the manner of voting, in the form of proxies, in the method of ascertaining persons present, in the method of making decisions, or in the method of accepting or counting votes shall be deemed waived under the following circumstances:
- (a) if the objecting person was in attendance at the meeting – they are waived if no objection to the particular procedural issue is made at the meeting.
  - (b) if the objecting person was not in attendance at the meeting but has proper notice of the meeting, they are waived if no objection to the particular procedural issue is made within sixty (60) days of the date the meeting is held,
  - (c) if the objecting person was not in attendance at a meeting, did not have proper notice of the meeting, but had actual notice of the meeting before it occurred, they are waived if no objection to the particular procedural issue is made within ninety (90) days of the date of the meeting,
  - (d) if the objecting person was not in attendance at the meeting and did not have actual and proper notice of the meeting before it occurred, within ninety (90) days of receiving actual notice of the occurrence of the meeting or of any decision that was made at the meeting.
  - (e) for any action, vote, or decision that occurred without a meeting, within one hundred and twenty (120) days of receiving actual notice of the occurrence of the action, vote, or decision.
- 8.2 Requirements for Objections. All objections, except those made at a meeting, shall be in writing. Whenever made, objections must be specific, shall include identification of the specific provision of the Governing Document or other Law that has been violated, and shall include a brief statement of the facts supporting the claimed violation.
- 8.3 Irregularities that Cannot Be Waived. The following irregularities cannot be waived under the prior subsection:
- (a) Any failure to comply with the provisions of the Declaration.
  - (b) Any failure to obtain the proper number of votes required to pass a particular measure.